

Exhibit 11

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08:55:02AM 1 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

— — —

AMBER DURHAM,	:	Case
	:	No. 2:21-cv-05417
Plaintiff	:	
vs.	:	
INSTANT BRANDS,	:	
INC.,	:	
Defendant.	:	

Thursday, September 15, 2022

13 Remote videotape videoconference
14 deposition of DAVID RONDINONE, taken pursuant
15 to notice, at the location of the witness in
16 Berkeley, California, on the above date,
17 beginning at 12:59 p.m. Eastern Standard Time,
18 before Jared E. Bittner, RPR-CSR and Notary
19 Public.

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22 REGISTERED PROFESSIONAL REPORTERS
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24 Voorhees, New Jersey 08043
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5 -and-

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13 ALSO PRESENT:
14

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I N D E X			3	5
WITNESS:		PAGE		
DAVID RONDINONE			1	
By Mr. Callahan		5	2	...DAVID RONDINONE, after having
- - -			3	been duly sworn, was examined and deposed as
EXHIBITS	DESCRIPTION	PAGE	4	follows...
Rondinone-1	43 Page Plaintiff's Expert Disclosures	9	5	- - -
Rondinone-2	3 Page Amended Notice of Video Deposition	11	6	BY MR. CALLAHAN:
Rondinone-3	1 Page Inspection Notes	27	7	Q. Good, I guess good morning for you.
Rondinone-9	Color Photograph 20-5290.79D EX UID11464460.1.2 Pressure cooker lid w base	106	8	Good afternoon for the rest of us. My name
Rondinone-10	Color Photograph P4250287-test	141	9	is Dennis Callahan. As you know, I represent
Rondinone-11	Color Photograph P4250156	149	10	Instant Brands. You're here for a discovery
Rondinone-12	Color Photograph P4250169	149	11	deposition. You understand that?
Rondinone-13	Color Photograph P4250230	152	12	A. Yes.
Rondinone-17	Color Photograph Float Valve B	168	13	Q. And what did you do to prepare for
Rondinone-18	Color Photograph P4250402	178	14	today's deposition?
Rondinone-19	Color Photograph P4250403	183	15	A. I reviewed my file. I reviewed an
Rondinone-20	Color Photograph IMG 4992	218	16	exemplar pressure cooker. I spoke with Adam
Rondinone-21	Color Photograph P1120134_resize	222	17	yesterday for about five, ten minutes, and I
24	- - -		18	think that's about it.
			19	THE VIDEOGRAPHER: Off the record,
			20	1:01.
			21	(Recess; 1:01 p.m.)
			22	- - -
			23	(Resumed; 1:02 p.m.)
			24	THE VIDEOGRAPHER: Back on the
		4		6
1			1	record, 1:02.
2	THE VIDEOGRAPHER: On the record.		2	BY MR. CALLAHAN:
3	The following is a videotape deposition. My		3	Q. Okay. So we had a slow start and a
4	name is Rick Kanzinger, Jr., and I'm the		4	quick interruption. So to prepare you
5	videotape operator. This deposition is being		5	reviewed your file. You spent 10 or 15, or
6	taken on Thursday, September 15th, 2022,		6	excuse me, five to ten minutes speaking with
7	scheduled for one o'clock p.m. via Zoom.		7	Mr. Kress and you looked at an exemplar unit?
8	Today's case is Amber Durham versus Instant		8	A. Yes.
9	Brands, Inc., Civil Action No. 2:21-cv-05417.		9	Q. Anything else?
10	This is filed in the United States District		10	A. I spoke with Mr. King in my office who
11	Court Reporter in the Eastern District of		11	worked on this project with me just as I was
12	Pennsylvania, and present for the taking of		12	reviewing, but that was sort of my part of
13	this videotape deposition are the witness,		13	the review of the file.
14	David Rondinone.		14	Q. How long did you spend reviewing the
15	Would counsel please state their		15	file?
16	names for the record?		16	A. You know, I don't know, probably a few
17	MR. CALLAHAN: Dennis Callahan for		17	hours last week and a few hours this week.
18	Instant Brands.		18	Q. A few meaning what?
19	MR. KRESS: Adam Kress on behalf		19	A. I have no specific number.
20	of the plaintiff, Perlock VJ.		20	Q. You can't tell me how long you worked on
21	THE VIDEOGRAPHER: The court		21	it?
22	reporter is Jared Bittner. Would the court		22	A. No, not exactly. I could say it was a
23	reporter please swear in the witness?		23	few hours meaning probably one to five hours
24	- - -		24	last week and one to five hours this week.

1 Q. Do you keep time records?
 2 A. I do.
 3 Q. Did you happen to record your time?
 4 A. I do.
 5 Q. All right. Do you have those records
 6 available? Could you look up how much time
 7 you spent?
 8 A. My bookkeeper could. I could ask her to
 9 do that. Yeah, yeah, she could do that. I'm
 10 not sure how up to date her records are, like
 11 they may not include yesterday or today, but
 12 I could ask her to look up what the -- what's
 13 in the, what's in the system.
 14 Q. What -- what examination -- what
 15 exemplar did you look at?
 16 A. Oh, I think it was a, a 60 Duo Plus.
 17 Q. Do you know the manufacture date?
 18 A. I don't recall the date, no.
 19 Q. Do you know how much time you spent
 20 altogether working on this matter in person?
 21 A. I do not. I do not.
 22 Q. Do you know how much time Berkeley
 23 Engineering spent working on it?
 24 A. I do not, but our invoices would reflect

1 videos and photos.
 2 Q. But you haven't seen a report?
 3 A. I don't think so.
 4 Q. I am going to share my screen.
 5 Can you see that, sir?
 6 A. I can.
 7 Q. Plaintiff's Designation of Expert
 8 Witness, is that what you're seeing?
 9 A. That is what I see.
 10 Q. Have you seen this document before?
 11 A. Possibly. I don't have a specific
 12 recollection, but I've seen a lot of these,
 13 so it's possible I've seen it.
 14 MR. CALLAHAN: Okay. For the
 15 record, I'm going to mark the report and
 16 disclosure or the entire designation package
 17 I suppose as Exhibit 1.
 18 (Exhibit Rondinone-1 was marked
 19 for identification.)
 20 BY MR. CALLAHAN:
 21 Q. And if we scroll down through this, this
 22 is you. You're designated as an expert
 23 witness. Do you see that?
 24 A. I do see that.

1 that.
 2 Q. Do you plan to do any additional work
 3 related to the Durham matter?
 4 A. Well, I plan to review what any other
 5 experts have to say. If they say something
 6 that I feel requires some type of analysis or
 7 work to address I would do that, and if I'm
 8 asked to prepare some kind of demonstrative
 9 for trial I would do that, and then I guess I
 10 would actually probably review. If it went
 11 to trial I'd do another, another file review.
 12 Q. So you said if you were presented with
 13 an expert report from Instant Brands, you'd
 14 review that and possibly create a
 15 supplemental report?
 16 A. Well, it might not be a report. It
 17 might be deposition transcript or his file or
 18 something like that. I don't know what's
 19 going to be presented to me.
 20 Q. All right. But you haven't seen
 21 anything from the defense expert yet?
 22 A. I only saw I think videos and photos
 23 that he took at his inspection. That's by no
 24 means his complete file, but there were

1 Q. Okay. And if we jump ahead, whoops,
 2 there is your report beginning on Page 5 of
 3 this exhibit. Do you see that?
 4 A. Yes.
 5 Q. Okay. And this is signed by you and
 6 signed by Derek King?
 7 A. Yes.
 8 Q. And if we look at the report it is, has
 9 page numbers 2, 3. I'm going to skip ahead.
 10 This is the final page of the report, Section
 11 7, conclusions and opinions. This is on Page
 12 12; right?
 13 A. Yes.
 14 Q. Okay. Is this your full report?
 15 A. Hold on. I think it is. Let me just
 16 pull up my PDF real quick. That sounds
 17 correct. Yeah, I think that's right. By the
 18 way, I did pull up a PDF of just the report
 19 and I did just look at that.
 20 Q. Okay. As part of your preparation you
 21 reviewed your report?
 22 A. That's true.
 23 MR. CALLAHAN: Okay. Hold on a
 24 second. I need to find a document already.

11

1 I've already lost a document. All right.
 2 We'll find it. Let's go back to the first
 3 page of this. This is going to be Exhibit
 4 No. 2.

5 (Exhibit Rondinone-2 was marked
 6 for identification.)

7 BY MR. CALLAHAN:

8 Q. It's a document entitled, "Amended
 9 Notice of Video Deposition."

10 Do you see that, sir?

11 A. I do.

12 Q. Have you seen this document before?

13 A. I think I've seen something like it, if
 14 not this exact one. The one I recall
 15 seeing -- yes, I think this was it.

16 Q. Well, let's see if I can refresh your
 17 memory by skipping to the addendum which
 18 lists a series of documents, requests,
 19 Paragraphs 1 through 14. Does this refresh
 20 your memory if you've seen it?

21 A. No, because I've seen, I've seen lists
 22 that look like that many, many, many times.
 23 I don't have a specific recollection of this
 24 particular list.

12

1 Q. All right. First, if it comes up do you
 2 have the subject pressure cooker available to
 3 you today?

4 A. I don't think so. I think that that did
 5 not get returned to my office.

6 Q. Okay. By the way, where is your office
 7 located?

8 A. Berkeley, California.

9 Q. And where are you currently?

10 A. In my office.

11 Q. In Berkeley?

12 A. In Berkeley.

13 Q. Okay. No. 2 has exemplar pressure
 14 cookers examined by the witness during your
 15 review and referenced in your report. Do you
 16 have those exemplar pressure cookers
 17 available to you if needed?

18 A. The one I have available is the one
 19 that's the same model. Other exemplars that
 20 are referenced in the report I don't have
 21 readily available. They're -- they're
 22 stashed away somewhere where I can't get to
 23 them immediately.

24 Q. When did you -- when did you stash them?

13

1 A. Oh, probably, probably a while ago. I
 2 don't know. It would have been wherever my,
 3 my -- our office assistant would have put
 4 them away.

5 Q. Before or after you wrote your report?
 6 A. Probably, you know, probably after. I
 7 would -- I would imagine after, but I
 8 don't -- I don't specifically recall when
 9 they were put away.

10 Q. Paragraph 4 is your entire, actually not
 11 your file, put Berkeley Engineering's entire
 12 file relating to this matter and relating to
 13 your examination of the subject pressure
 14 cooker. Has that been produced to your
 15 counsel for production to me?

16 A. Yes.

17 Q. Okay. And is there anything in your
 18 file that wasn't produced?

19 A. There were two documents that for
 20 whatever reason didn't get up in the share
 21 folder until yesterday. I was going through
 22 the file again yesterday and I recognized one
 23 document. I don't -- I have no idea why it
 24 wasn't there, and then there was another

14

1 document, the summary file that was on the
 2 share folder was an old version, so I put the
 3 latest version up there. I also sent copies
 4 of those to Mr. Kress yesterday so they could
 5 be distributed about. Everything is on
 6 there.

7 Q. Okay. I did receive two additional
 8 documents yesterday. We'll go through just
 9 for completeness sake what you sent to me
 10 including the two additions, but it was your
 11 intention to produce your entire file to
 12 Mr. Kress for production to me; is that fair?

13 A. That's fair.

14 Q. Okay. And have you produced all videos,
 15 video depiction test results, notes, et
 16 cetera, generated in connection with your
 17 examination of the Durham product?

18 A. Yeah, they were all part of my file.

19 Q. And have you produced all photographs,
 20 video depictions, measurements, notes, other
 21 items generated in connection with your
 22 examination of other products which you
 23 intend to rely on today?

24 A. Yes, those photos, I will probably refer

1 to a few photos in the report, and I think
2 that's all there is for that.

3 Q. Okay. Do you have any photographs,
4 videos, test results or other items generated
5 during the testing of a float valve in any
6 pressure cooker?

7 A. I mean, I've tested dozens if not more
8 pressure cookers and I do not have all of my
9 test data in my file for this case. Many of
10 them are not pertinent to this case.

11 Q. Are you relying on it for this case even
12 though it hasn't been produced?

13 A. No. I would say no. I don't think they
14 have any bearing on this case.

15 Q. Okay. How about No. 10, test results
16 generally, have all the test results for any
17 product on which you're basing your opinions
18 in this matter been produced?

19 A. Yeah, because I don't think any of those
20 test results apply to this case, so I would
21 say that they're not -- they don't apply to
22 this case.

23 Q. Okay. Have you produced all of the
24 documents containing the facts or data

1 he has access to them I assume could do that
2 as well.

3 MR. KRESS: Yeah. Dennis, happy
4 to supplement.

5 MR. CALLAHAN: Thank you.
6 BY MR. CALLAHAN:

7 Q. I'm going to bring up another -- well,
8 it's not really a document. It is a, the
9 electronic folder of what was produced. On
10 the file share that was sent to me there were
11 one, two, three, four, five, six, seven
12 folders and three separate documents.

13 Does that sound accurate?

14 A. I -- I see that what you're showing me
15 now does not include the two documents I sent
16 yesterday. And just to be clear, one of the
17 two documents I sent yesterday is a newer
18 version of the materials document that you're
19 showing on the file, yeah, that you're
20 showing right now.

21 Q. Okay. There is a newer version of this
22 materials summary?

23 A. Yes.

24 Q. Okay. And I'll acknowledge I did

1 considered by you in forming your opinions in
2 this case?

3 A. Yeah, I believe those are all in the
4 file.

5 Q. Have you created anything to date that
6 you'll be used -- that will be used at trial
7 to illustrate your points or your opinions?

8 A. No, I haven't created anything
9 specifically for trial yet.

10 Q. And have the documents -- well, first of
11 all, I'll ask do you have documents that will
12 accurately state the amount of compensation
13 billed in this matter?

14 A. My bookkeeper and Mr. Kress's office
15 have all the invoices. I think that's what
16 you're referring to. I don't have those in
17 my file. I don't maintain those in my file.

18 Q. All right. Do you know if those have
19 been produced?

20 A. That I don't know.

21 Q. Can they be produced?

22 A. Yeah. I don't think my bookkeeper is in
23 the office at this moment, but I can
24 certainly ask her to do that or Mr. Kress if

1 receive that.

2 A. Okay.

3 Q. This is just from your file share that
4 was produced I think last week.

5 A. Yeah, that looks like it was a week or
6 two ago or something like that.

7 Q. Well, I think it's dated the 6th, so it
8 probably was produced on the 6th.

9 A. Okay. That sounds reasonable.

10 Q. Which is nine days ago, last week.

11 A. Okay.

12 Q. And then there is a notes section. This
13 particular document just has two notes.

14 Ivery is the mother of Amber. [REDACTED]
15 is the young son of Amber. That's the only
16 thing that's in that document?

17 A. Yes.

18 Q. And then you produced another document.
19 I'm going to stop share for a sec. Hold on,
20 I have to find it. Oh, I don't have it
21 electronically available. I'll have to dig
22 that out during a break, but it looks like
23 it's typewritten notes, a text file of
24 typewritten notes of the heater examination;

19**21**

1 is that fair?
 2 A. Yes, I think that is fair.
 3 Q. It looks like that.
 4 A. Yes. I can't really read it, but I
 5 think that is -- I think, you know, it's
 6 fuzzy, but it looks like the right thing. I
 7 think you're correct.
 8 Q. Okay. I'll go find it and we can look
 9 at it later, but that's, that's what I have.
 10 I think we're talking about the same document
 11 because that was the one that was sent to me
 12 yesterday.
 13 Going back to what we had, okay,
 14 Folder 1, BEAR Administration --
 15 A. Yes.
 16 Q. -- this is just, this is basically the
 17 retainer agreement; right?
 18 A. That is, yeah, the retainer agreement.
 19 I think there was an e-mail associated with
 20 the agreement and then a signed version of
 21 the agreement. I think that's what's in
 22 there.
 23 Q. Okay. And then the folder marked
 24 "Evidence" contains what?

1 three exemplars that we do have in our
 2 possession here at BEAR somewhere.
 3 Q. All right. You didn't test any of those
 4 three exemplars in connection with the Durham
 5 matter?
 6 A. I don't think so, no.
 7 Q. Nothing has been report -- nothing has
 8 been disclosed about a test; right?
 9 A. I believe that is correct, yes. I think
 10 I visually looked at them, but I don't think,
 11 you know, we did any pressure testing or
 12 anything like that.
 13 Q. There is a folder, "Documents Received."
 14 What's in here?
 15 A. Well, this one is just the depo change
 16 notice that I received recently which was I
 17 think the one you actually showed me. It's
 18 showing the date and time for the depo.
 19 Q. All right. There is a folder marked
 20 "Inspection." What is this?
 21 A. These are photographs that we took here
 22 at BEAR showing the subject unit. I believe
 23 there is one video in there as well, oh, and
 24 it's showing the operation of the float.

20**22**

1 A. So those are documents generated and
 2 photographs generated by my evidence manager
 3 when the evidence is taken in. So you'll see
 4 there are photographs of the pressure cooker.
 5 There is a tag of the pressure cooker that we
 6 put on the pressure cooker. It looks like
 7 there is a shipping tag for shipping the
 8 evidence to Mr. Matisse at FEA in Ohio, and I
 9 think that's it. I think that's what's in
 10 here. Oh, and a chain of custody as well.
 11 Q. So this is a just a document of what was
 12 in the box that you received essentially?
 13 A. And it also documents that we sent the
 14 evidence to somebody else.
 15 Q. Therefore. And exemplars, what are
 16 these?
 17 A. These are exemplar pressure cookers. I
 18 believe that they are all Instant Pots. Let
 19 me just flip through. Yeah, we've got a Duo
 20 Plus. We've got a Duo Plus and we've got a
 21 Duo Plus. Yeah, so we've got three exemplars
 22 that were taken in for this. I don't recall
 23 which of those three I looked at in my review
 24 for the depo, but that's, it documents the

1 That's all. So that's, I believe that's
 2 what's in this folder. These are just
 3 photo -- these are just, these are documents
 4 that we generated during the inspection of
 5 the pressure cooker.
 6 Q. Okay. Is this all the photographs of
 7 the inspection?
 8 A. I believe that is correct, yes.
 9 Q. Who conducted this inspection?
 10 A. I believe that Mr. King was the one who
 11 actually conducted the inspection. I believe
 12 that it was Mr. King in this case.
 13 Q. Did you attend the inspection with Mr.
 14 King?
 15 A. So, yeah, I don't recall. I know I
 16 looked at the subject pressure cooker and I
 17 reviewed what was done during the inspection.
 18 I just don't recall if I was there for part
 19 of the inspection or not. I've seen so many
 20 of these that just, I can't -- I can't
 21 isolate it. I don't know.
 22 Q. When did you -- when did you examine the
 23 actual unit involved?
 24 A. I believe I would have looked at it

<p style="text-align: center;">23</p> <p>1 right around this same date back in April. 2 Q. When you say "looked at," what do you 3 mean? 4 A. I mean visually inspected. 5 Q. Did you take photographs of your 6 inspection? 7 A. No. I think all the photographs that we 8 took are in this directory here. 9 Q. Okay. How long was Mr. King's 10 inspection of the unit? 11 A. You know, I don't know. I don't recall. 12 Q. A couple hours? 13 A. Probably, that's typical. 14 Q. And how long was your inspection? 15 A. Um, well, I don't recall if I was 16 present for the inspection that he was 17 conducting, but I typically when I look at 18 these it's only, initially it would only be 19 for about an hour probably give or take. 20 Q. Do you recall what you would do during 21 your inspection? 22 A. I typically would do a visual OEM 23 inspection meaning look at all the parts, 24 look at all of the physical damage if there</p>	<p style="text-align: center;">25</p> <p>1 this? 2 A. These are materials that were provided 3 to BEAR from Mr. Kress's office. They 4 include three depositions, it looks like 5 initial disclosures and requests, and then 6 some discovery from, from Instant Pot. 7 Q. Did you review this information as part 8 of your evaluation? 9 A. I did and my office did, meaning that I 10 don't recall if it was Mingxi Zheng or Derek 11 King who did the summaries, but I had them 12 assist me in preparing the summaries, and 13 then I reviewed the documents after the 14 summaries were repaired -- prepared, so I 15 could update those summaries and it helps me 16 go through the documents a lot faster. I'm 17 much more efficient when I do it that way. 18 Q. And "Received 8/30," what is this? 19 A. These are photographs and videos that I 20 believe were taken by your expert at his 21 office. They basically document the pressure 22 cooker and I think they also document a 23 couple of tests that he performed where I 24 think he ran the, ran the cooker through a</p>
<p style="text-align: center;">24</p> <p>1 is any. I would place the parts together if 2 there are parts that could be placed 3 together, for example, place the lid on the 4 base. Those are things that I would 5 typically do. 6 Q. Did you take any notes of your 7 inspection? 8 A. No, I don't think so. 9 Q. Why not? 10 A. There is no need. My note was going to 11 be fully documented in the formal inspection, 12 so I didn't feel any need to take notes at 13 the time. 14 Q. Why didn't you take the time to look at 15 it? 16 A. Because any time evidence comes in I 17 like to take a look at it and see what we've 18 got so that I can get, do sort of a 19 preliminary mental assessment on it. 20 Q. Did you look at this product before or 21 after Mr. King? 22 A. I don't recall the date that I looked at 23 it. 24 Q. There is a folder, "Materials." What's</p>	<p style="text-align: center;">26</p> <p>1 cycle, relieved the pressure and then opened 2 it. I think he did it, I recall him doing it 3 both maybe two times. I'd have to look at 4 the videos again, but I did review his videos 5 as well. 6 Q. In here is a copy of your report, I 7 believe -- 8 A. Yes. 9 Q. -- also provided. 10 A. Yes, correct. 11 Q. And I am going to find that document for 12 completeness here. I have to find out where 13 you guys went. There you are. 14 Okay. Do you see that document? 15 A. Oh, yes. This is the note document that 16 you were holding up earlier I think. 17 Q. Okay. And this was produced to me I 18 believe on Tuesday. Monday or Tuesday, I 19 can't remember now. 20 A. Yeah, that sounds right. 21 Q. And this is, this is all the notes that 22 Mr. King took during his examination? 23 A. Yes, correct. 24 MR. CALLAHAN: I will mark the</p>

<p style="text-align: center;">27</p> <p>1 inspection notes as Exhibit No. 3, the 2 document I just displayed. 3 (Exhibit <u>Rondinone-3</u> was marked 4 for identification.)</p> <p>5 MR. CALLAHAN: And I wasn't -- I 6 can't mark obviously the Windows Explorer 7 window that had the, you know, showing what 8 was in the file share, but...</p> <p>9 BY MR. CALLAHAN:</p> <p>10 Q. Sir, you are a mechanical engineer; 11 correct?</p> <p>12 A. That's correct.</p> <p>13 Q. You would not consider yourself a hazard 14 communications expert?</p> <p>15 A. Only as it applies to engineering 16 design.</p> <p>17 Q. You don't -- you don't draft warnings 18 for people, do you, or for entities?</p> <p>19 A. I've drafted instructions and warnings 20 for a product that I've worked on the design 21 for, but I don't think I've ever been hired 22 to, to draft warnings for something that I 23 had nothing to do with.</p> <p>24 Q. All right. There are people more</p>	<p style="text-align: center;">29</p> <p>1 A. Well, the human or operator interaction 2 with a device is inherent in the design, 3 meaning that the designer needs to understand 4 the way the operator will interact with the 5 device, and that part of it is part of 6 engineering design. You know, what's going 7 through people's minds as they're operating 8 things and the psychology of it is not. I 9 can't address that.</p> <p>10 Q. All right. Do you have any expertise in 11 conducting consumer surveys of consumer 12 experience with products?</p> <p>13 A. Oh, you know, over the years I have 14 conducted -- well, I've participated in some 15 surveys over the years, but it's been a long 16 while since I've done anything like that 17 personally. That would have been like 18 decades ago probably.</p> <p>19 Q. All right. Would you consider yourself 20 an expert in conducting consumer surveys?</p> <p>21 A. I guess I don't know. I never really 22 thought about that. I don't know.</p> <p>23 Q. All right. Would you consider yourself 24 an expert in judging consumer expectations of</p>
<p style="text-align: center;">28</p> <p>1 knowledgeable about warnings than you out 2 there professionally; correct?</p> <p>3 A. Well, I'm sure there are.</p> <p>4 Q. Okay. I mean, there are people that 5 specialize in hazards communication; right?</p> <p>6 A. I have met people like that, yes, and 7 that's pretty much all they do.</p> <p>8 Q. Okay. And that's not you?</p> <p>9 A. That is correct.</p> <p>10 Q. All right. You're not an expert in 11 psychology or human factors or human 12 behavior?</p> <p>13 A. I would say that I am an expert in the 14 human factor side as it relates to operator 15 behavior and engineering design. I am 16 definitely not an expert in psychology.</p> <p>17 Q. Okay. Are there experts that specialize 18 in human factors, people's interaction with a 19 machine or a product?</p> <p>20 A. I'm sure that there are. I'm sure that 21 there are, although I don't know that I can 22 name any.</p> <p>23 Q. What's the nature of your expertise with 24 respect to human factors?</p>	<p style="text-align: center;">30</p> <p>1 a product?</p> <p>2 A. Yeah. As it relates to the engineering 3 design, yes, I do.</p> <p>4 Q. Same way -- in the same manner you told 5 us before?</p> <p>6 A. Correct.</p> <p>7 Q. All right. Your report does not contain 8 any opinions or conclusions regarding 9 warnings; correct?</p> <p>10 A. No, I don't think I have any opinions in 11 this case specific to the warnings.</p> <p>12 Q. You're not a physician?</p> <p>13 A. I am not a medical doctor.</p> <p>14 Q. And you've never conducted a study of 15 burn injuries?</p> <p>16 A. Well, no, that's probably not true. Not 17 specific for this case, but in the past I 18 have done work and analysis on burn injuries, 19 but it's -- it had more to do with the 20 engineering side of it, for example, what 21 temperatures and exposures would lead to 22 injury, meaning I've done surveys of 23 engineering and medical literature that refer 24 to that. So I'm not a medical doctor. I</p>

<p style="text-align: center;">31</p> <p>1 can't tell you what's going on with the skin 2 and why it burns and that sort of thing, but 3 I definitely have reviewed what it takes for 4 typical burn injuries, but not specifically 5 for this case. I didn't specifically do that 6 for this case.</p> <p>7 Q. When you say what's -- I can't remember 8 how you described it. Are you referring to 9 studies of like time temperature exposure 10 related to burns?</p> <p>11 A. Yes, yes, yes.</p> <p>12 Q. Okay. So X number of minutes at 140 13 degrees can cause damage or a lesser number 14 of 150 degrees might cause damage, that sort 15 of thing?</p> <p>16 A. Yeah. And I would also include that in 17 addition to time and temperature, the 18 material contact, so, for example, if it was 19 with air or if it's with water contact will 20 give very different results because of their 21 thermal conductivity and heat capacity. So 22 it would include all of those little bits and 23 pieces, but to me that's more of an 24 engineering approach as opposed to a medical</p>	<p style="text-align: center;">33</p> <p>1 Q. All right. Does water or liquid 2 behave -- I mean, the liquid expelled from a 3 pressure cooker or any other, from a hose or 4 whatever follows the rules of Newtonian 5 physics; right?</p> <p>6 A. Yeah, I think that's fair.</p> <p>7 Q. Okay. If it's going to be, I mean, if 8 it's going to be move from point A to point 9 B, a force has to be exerted upon it; 10 correct?</p> <p>11 A. Yes, a force has -- a force has to 12 impart an acceleration which will impart a 13 velocity which will then combine with, you 14 know, gravity or any other external forces 15 will dictate the motion of the liquid.</p> <p>16 Q. Okay. And that's the nature of your 17 expertise?</p> <p>18 A. Yeah, I think that's fair.</p> <p>19 Q. Okay. Have you ever been employed by a 20 product manufacturer?</p> <p>21 A. We have been employed by product 22 manufacturers, yes.</p> <p>23 Q. That's not my question. My question is 24 you personally, have you ever been employed</p>
<p style="text-align: center;">32</p> <p>1 approach. It didn't talk about what exactly 2 happens to the skin or the cells or anything 3 like that.</p> <p>4 Q. Okay. Do you have any special expertise 5 in liquid dispersion?</p> <p>6 A. As it relates to the physics involved 7 for the motion of the liquids, then yes.</p> <p>8 Q. Describe for me, please.</p> <p>9 A. Sure. So, so, for example, with a 10 pressure cooker, if the pressure cooker lid 11 is open while the unit is under pressure, the 12 liquid would be ejected either vertically or 13 horizontally depending upon the way that the 14 lid is being held at the time and the way the 15 lid separates from the cooker.</p> <p>16 The motion of that liquid to me 17 falls into what I think you're asking about, 18 and the physics that dictates the motion of 19 the liquid I think also falls into what 20 you're talking about, at least that's my 21 understanding of your question.</p> <p>22 Q. Okay. Any other expertise?</p> <p>23 A. Outside of the physics, I think that 24 would cover it.</p>	<p style="text-align: center;">34</p> <p>1 by a product manufacturer?</p> <p>2 A. Only through my work at BEAR, not as an 3 employee directly with that product 4 manufacturer.</p> <p>5 Q. You started with BEAR actually during 6 school; correct?</p> <p>7 A. I started with BEAR, yeah, just -- when 8 was that? It was probably just before my 9 Bachelor's.</p> <p>10 Q. Before achieving your Bachelor's degree, 11 not starting it?</p> <p>12 A. Oh, yeah, correct, just before achieving 13 my Bachelor's. I already -- I was already a 14 student at the time.</p> <p>15 Q. Got it. And you've been with BEAR 16 since, ever since I should have said?</p> <p>17 A. Yes, that's correct.</p> <p>18 Q. All right. You said BEAR has been 19 engaged by product manufacturers. By whom?</p> <p>20 A. Oh, that's a pretty broad swath. The 21 ones that I've worked on that I'm familiar 22 with would include like power companies and 23 refineries that manufacture their own 24 components, suppliers for those, for those</p>

<p style="text-align: center;">35</p> <p>1 types of industries. Oh, I've worked 2 directly with biomedical device 3 manufacturers. I've worked directly with OEM 4 manufacturers for automobile production. I 5 worked directly -- I guess once I worked with 6 a guy who was going to produce a climbing 7 wall. I -- there is -- I'm sure there are 8 others, too. I mean, those are the ones that 9 come to mind.</p> <p>10 Q. Your, in your expert disclosure a CV was 11 attached. It lists a whole number of 12 publications. Would you agree that none of 13 them relate to pressure cookers specifically?</p> <p>14 A. I think -- well, I think in that list 15 that might be true. I mean, I haven't looked 16 at that list in years to be honest with you. 17 I don't think it's been updated in a long 18 time.</p> <p>19 Q. So is that a yes, you haven't written an 20 article, published an article related to a 21 pressure cooker outside of litigation?</p> <p>22 A. I think that's fair. Yes, I think 23 that's fair.</p> <p>24 Q. Okay. Are you aware of any generally</p>	<p style="text-align: center;">37</p> <p>1 Q. Okay. If a product does not go through 2 the UL certification process, does that mean 3 it is defective?</p> <p>4 A. Not necessarily. I mean, it depends on 5 the product and how it's designed.</p> <p>6 Q. Can you think of any other design 7 standards other than the UL standards that 8 you say apply?</p> <p>9 A. I can't think of any right now.</p> <p>10 Q. Okay. I almost pressed leave.</p> <p>11 A. Good thing you didn't.</p> <p>12 Q. Going back to your report as Exhibit 1. 13 Skipping ahead here, okay. Here is your 14 resume, your curriculum vitae.</p> <p>15 A. Okay.</p> <p>16 Q. And I want to skip ahead to your 17 testimony list.</p> <p>18 A. Okay.</p> <p>19 Q. The testimony list that I was provided 20 of the most recent testimony is November 19th 21 of 2019.</p> <p>22 A. I see that.</p> <p>23 Q. I know there has been COVID, but you've 24 testified since then, have you not?</p>
<p style="text-align: center;">36</p> <p>1 accepted literature relating to pressure 2 cooker design?</p> <p>3 A. Outside of like the UL standards and the 4 industry standards I would say no, those are 5 the ones that I'm aware of.</p> <p>6 Q. What UL standards?</p> <p>7 A. 1026 and 136 are the ones that come to 8 mind.</p> <p>9 Q. What's the scope of UL Standard 1026?</p> <p>10 A. 1026 I believe is the electronic 11 pressure cooker standard, and 136 I believe 12 is the stovetop standard, but 1026 had 13 language that indicates that parts of 136 14 should be applied to the electronic pressure 15 cookers, specifically the lid interlock 16 mechanism. So those are the two together I'd 17 say that would make up those documents.</p> <p>18 Q. If a product goes through the UL 19 certification process, does that indicate the 20 product is not defective?</p> <p>21 A. No, I think that no. I would say that 22 it just means that whoever tested it to 23 whatever test, testings they put it through, 24 it passed those tests.</p>	<p style="text-align: center;">38</p> <p>1 A. I certainly have. I'll have to talk to 2 my office to see what the most updated 3 version is. I know that my office -- yeah, I 4 guess I don't know how often they update it, 5 but I assume they update it about once a 6 year. I know with COVID -- I know in the 7 early part of 2020 and even into the early 8 part of 2021 I had very, very few 9 depositions. Sort of after COVID hit things 10 sort of hit a -- they hit the brakes on that. 11 It wasn't until probably about a year ago 12 that it started up again, but I'd have to 13 talk to my office to see what the most recent 14 version of this, of this list is, because I 15 know I have definitely had depos since 16 November 2019.</p> <p>17 Q. In calendar year 2022 how many 18 depositions have you given, do you know?</p> <p>19 A. I don't know specifically, but I would 20 estimate maybe five or ten. I'm not sure, 21 something in the -- maybe a few more than 22 ten, but it's not tremendously more than 23 that.</p> <p>24 Q. How many of those depositions related to</p>

<p style="text-align: center;">39</p> <p>1 pressure cookers?</p> <p>2 A. Oh, probably I would say at least five</p> <p>3 have been pressure cookers. I don't have a</p> <p>4 specific number, but it's been a fair number.</p> <p>5 Q. Just in 2022 I'm asking.</p> <p>6 A. Yeah, correct.</p> <p>7 Q. Okay. Do you remember the case names?</p> <p>8 A. No, I don't.</p> <p>9 Q. Do you remember the manufacturers?</p> <p>10 A. I think there were Maxi-Matic, Tristar,</p> <p>11 maybe, maybe Bella. I'm -- I'm not sure</p> <p>12 about Bella. I think there might have been a</p> <p>13 Bella or two. I don't think there have been</p> <p>14 any Instant Pots.</p> <p>15 Q. When you testify at a deposition, do you</p> <p>16 consider yourself in the expert in the topic</p> <p>17 discussed at the deposition?</p> <p>18 A. I do.</p> <p>19 Q. Okay. So just look at the list you have</p> <p>20 here. November 19, 2019, you testified</p> <p>21 regarding a motorcycle gas tank.</p> <p>22 A. Yes, that's correct. That was the</p> <p>23 physics and failure of the material of the</p> <p>24 gas tank.</p>	<p style="text-align: center;">41</p> <p>1 Q. The next one, concrete hose, you were an</p> <p>2 expert in that?</p> <p>3 A. Well, I don't specifically recall that</p> <p>4 case, but if it was a concrete hose that</p> <p>5 would also be mechanical engineering. I</p> <p>6 think everything here is going to be</p> <p>7 mechanical engineering.</p> <p>8 Q. How many matters -- you haven't</p> <p>9 testified in every case; right?</p> <p>10 A. Oh, no. No, it's probably just a small</p> <p>11 percentage.</p> <p>12 Q. What's the percentage of cases you've</p> <p>13 testified versus the percentage of cases you</p> <p>14 have evaluated?</p> <p>15 A. I have no idea. I don't keep that</p> <p>16 statistic, but if I had to estimate maybe one</p> <p>17 in ten, maybe.</p> <p>18 Q. So for every deposition here there is</p> <p>19 ten other -- there is nine other cases where</p> <p>20 you did an evaluation, wrote a report, but</p> <p>21 did not testify?</p> <p>22 A. Well, that's not what I said. Some of</p> <p>23 them don't require reports at all. Some of</p> <p>24 them are just sort of preliminary work and</p>
<p style="text-align: center;">40</p> <p>1 Q. All right. So you consider yourself an</p> <p>2 expert in that field?</p> <p>3 A. Certainly.</p> <p>4 Q. And the next one down, Sanchez, what was</p> <p>5 that case about?</p> <p>6 A. I don't recall what that one is about.</p> <p>7 Q. Ryan Rainwater was a propane heater. Do</p> <p>8 you consider yourself in that product as</p> <p>9 well?</p> <p>10 A. Yes. Yes, because that's also just</p> <p>11 straight up mechanical engineering.</p> <p>12 Q. The next one, fridge water line leak, do</p> <p>13 you consider yourself an expert in fridge</p> <p>14 water lines?</p> <p>15 A. Yes. That's just mechanical</p> <p>16 engineering.</p> <p>17 Q. This Becerra versus Illinois Tool, what</p> <p>18 was that case about?</p> <p>19 A. I don't recall.</p> <p>20 Q. The Hawkins case, gasoline container</p> <p>21 explosion, again, you're an expert in that</p> <p>22 field?</p> <p>23 A. Yes, that was also mechanical</p> <p>24 engineering.</p>	<p style="text-align: center;">42</p> <p>1 doesn't get any further.</p> <p>2 Q. Okay.</p> <p>3 A. And like I said that ten is an estimate.</p> <p>4 So we can't say one is a depo and nine are</p> <p>5 not because that's -- that kind of specific</p> <p>6 number I'm not giving you. I'm just --</p> <p>7 that's a big, round number. That's an</p> <p>8 estimate.</p> <p>9 Q. All right. But using your estimate, for</p> <p>10 every case that walks in the door</p> <p>11 approximately one time you testify and nine</p> <p>12 other times you don't testify, whatever</p> <p>13 happens in that case?</p> <p>14 A. That's possible. Yeah, that's possible.</p> <p>15 Q. Okay. And I'm not making that number</p> <p>16 up, I'm using your estimate, estimate to do</p> <p>17 that math; right?</p> <p>18 A. Oh, yes. Yeah, as long as you're aware</p> <p>19 that it's an estimate then I think that's</p> <p>20 fair.</p> <p>21 Q. Okay. And is that true with pressure</p> <p>22 cookers?</p> <p>23 A. Um, maybe. I guess I don't have a</p> <p>24 specific on that either, but it's probably at</p>

43	45
<p>1 least in that ballpark.</p> <p>2 Q. Okay. How many pressure cooker matters</p> <p>3 have you worked on, whether or not they ended</p> <p>4 up in a deposition or testimony?</p> <p>5 A. Yeah, I would estimate, oh, 100 plus or</p> <p>6 minus 25 or something I guess. That's a</p> <p>7 very, that's a very rough estimate, but it's</p> <p>8 in that ballpark.</p> <p>9 Q. And this is you personally?</p> <p>10 A. Yeah, I personally looked at those</p> <p>11 pressure cookers.</p> <p>12 Q. Anybody else that looks at pressure</p> <p>13 cookers at Berkeley Engineering?</p> <p>14 A. Well, Mr. King works on a lot of the</p> <p>15 pressure cookers with me. We work on the</p> <p>16 cases together. He's probably worked on some</p> <p>17 without me, but I don't really know since I</p> <p>18 don't track all of his work. Maybe</p> <p>19 Dr. Stevick has worked on some that I don't</p> <p>20 know about. I guess -- I guess I don't know.</p> <p>21 It's possible. I wouldn't rule it out.</p> <p>22 Q. Okay. When you work on pressure cooker</p> <p>23 matters, is it always for the plaintiff?</p> <p>24 A. I think on pressure cookers that's true.</p>	<p>1 Q. Farberware?</p> <p>2 A. Farberware, yeah, that does sound</p> <p>3 familiar. I bet a couple of those have come</p> <p>4 across.</p> <p>5 Q. Instant Brands?</p> <p>6 A. Yes.</p> <p>7 Q. Cuisinart?</p> <p>8 A. I think so. I think so.</p> <p>9 Q. All right. And how about Fagor,</p> <p>10 F-A-G-O-R?</p> <p>11 A. Oh, you know what, that one sounds</p> <p>12 familiar, too. I bet I've seen -- I bet I've</p> <p>13 seen one or two of those.</p> <p>14 Q. Gourmia, G-O-U-R-M-I-A?</p> <p>15 A. Gourmia, Gourmia also sounds familiar.</p> <p>16 I guess I -- I don't have a specific</p> <p>17 recollection of theirs being a pressure</p> <p>18 cooker, but I think. I want to say I think</p> <p>19 so.</p> <p>20 Q. How about Insignia?</p> <p>21 A. I don't know.</p> <p>22 Q. Presto?</p> <p>23 A. That one sounds familiar. I don't know.</p> <p>24 Did Presto do the Wolfgang Puck? I guess I'm</p>
44	46
<p>1 Q. Otherwise in your other work is it</p> <p>2 mostly for plaintiffs or --</p> <p>3 A. Well, I don't keep a specific track of</p> <p>4 that and I know it does change like week to</p> <p>5 week and month to month. So there are some</p> <p>6 weeks that it's majority plaintiff work and</p> <p>7 there are some weeks where it's majority</p> <p>8 defense work, but I would say on average it's</p> <p>9 majority plaintiff meaning over half the work</p> <p>10 is plaintiff on average, but I know that</p> <p>11 there are many weeks where that is not true.</p> <p>12 Q. All right. You've had cases -- you've</p> <p>13 had pressure cooker cases against Tristar you</p> <p>14 said?</p> <p>15 A. Yes.</p> <p>16 Q. Maxi-Matic?</p> <p>17 A. Yes.</p> <p>18 Q. Cook Essentials?</p> <p>19 A. Cook Essentials, that does sound</p> <p>20 familiar. I guess I don't -- I don't</p> <p>21 specifically recall, but that name does sound</p> <p>22 familiar. I bet there have been.</p> <p>23 Q. All right. Sunbeam?</p> <p>24 A. Yes.</p>	<p>1 not sure about Presto. I'm not sure.</p> <p>2 Q. All right. How about Breville for</p> <p>3 Williams Sonoma?</p> <p>4 A. That one does not sound familiar, so I</p> <p>5 guess I'm not sure about that one.</p> <p>6 Q. All right. Royal Prestige?</p> <p>7 A. I think I have seen Royal Prestige, but</p> <p>8 I'm not sure if those were electronic or</p> <p>9 stovetop. I guess I don't -- I don't recall.</p> <p>10 I'm not sure. I'd say I'm not sure for that</p> <p>11 one, but it does sound familiar.</p> <p>12 Q. Ninja?</p> <p>13 A. Yes, I have seen a Ninja maybe once.</p> <p>14 Q. T-fal?</p> <p>15 A. Say that again.</p> <p>16 Q. T-fal?</p> <p>17 A. Can you spell it? No, T-fal, T-f-a-l?</p> <p>18 Q. Yes.</p> <p>19 A. You know, I'm not sure about that one.</p> <p>20 Q. Okay. Admiral?</p> <p>21 A. That one sounds familiar, but I'm going</p> <p>22 to say I'm not sure.</p> <p>23 Q. How about Philippe Richard?</p> <p>24 A. Yes, I have seen Philippe Richard, but</p>

<p style="text-align: center;">47</p> <p>1 those have might have also been stovetops as 2 well if I remember right.</p> <p>3 Q. All right. You make a good point. I'm 4 going to go back and ask you that question 5 when we're done with this list.</p> <p>6 How about NuWave pressure cookers?</p> <p>7 A. That sounds -- that does sound familiar, 8 but I don't have a specific recollection of 9 seeing one of those, but I bet I have.</p> <p>10 Q. All right. Cosori?</p> <p>11 A. Yes.</p> <p>12 Q. Wolfgang Puck?</p> <p>13 A. Yes.</p> <p>14 Q. Any others that you can think of that I 15 didn't list?</p> <p>16 A. Well, for some reason the name Bella is 17 coming to mind, but I don't recall what the 18 manufacturer's name is. That might just be a 19 brand.</p> <p>20 Q. Okay. Any others?</p> <p>21 A. Not that I can think of. There may be, 22 but I can't think of any.</p> <p>23 Q. In any of these pressure cooker cases, 24 did you write reports saying that the product</p>	<p style="text-align: center;">49</p> <p>1 because it lacked an appropriate locking 2 mechanism; is that fair?</p> <p>3 A. That's true in many of the cases, yes.</p> <p>4 Q. Okay. Is that a lack of a locking 5 mechanism or an inadequate locking mechanism?</p> <p>6 A. No, I think they all have locking 7 mechanisms that they believe are locking 8 mechanisms, but in many cases the mechanisms 9 are not sufficient locks meaning you can just 10 open them by hand.</p> <p>11 Q. And you don't express that opinion in 12 this Durham matter, do you?</p> <p>13 A. That's true.</p> <p>14 Q. Have you found a product, a pressure 15 cooker to be defective because the float 16 valve is too low and not visible to the user?</p> <p>17 A. Yes, I do.</p> <p>18 Q. Have you found a product, a pressure 19 cooker to be defective because the float 20 valve is too high and subject to being 21 accidentally depressed and unlocked by the 22 user?</p> <p>23 A. You know, I don't specifically recall 24 that. I guess that could have -- that could</p>
<p style="text-align: center;">48</p> <p>1 was not defective?</p> <p>2 A. That I don't know. I'm guessing 3 probably not, because I -- because I imagine 4 that if I told the client it wasn't defective 5 they wouldn't ask for a report.</p> <p>6 Q. Did you ever find one of these products 7 to be not defective?</p> <p>8 A. You know, that I'm not sure. It is 9 possible. I guess I don't have a specific 10 recollection of that, but I do recall that 11 there were some where we called the client 12 and said there is just nothing here, but I 13 can't tell you specifically what that would 14 be.</p> <p>15 Q. You can't tell me that manufacturer?</p> <p>16 A. No.</p> <p>17 Q. Did you ever call the client and tell 18 them that the Instant Brand's pressure cooker 19 was not defective?</p> <p>20 A. That I don't know. I don't recall doing 21 that, but I wouldn't rule it out.</p> <p>22 Q. In the course of your work evaluating 23 these products for plaintiffs, you found that 24 one or more of these products was defective</p>	<p style="text-align: center;">50</p> <p>1 be, but I don't have a specific recollection 2 of that, but I guess I wouldn't rule it out.</p> <p>3 Q. Have you found a pressure cooker 4 defective because it gets pressurized when 5 not fully close -- closed? Sorry.</p> <p>6 A. Yes.</p> <p>7 Q. Have you found any of these pressure 8 cookers to be defective because they get 9 pressurized when not fully locked?</p> <p>10 A. Yes.</p> <p>11 Q. Have you found any of these pressure 12 cookers to be defective because they lack a 13 magnetic or mechanical lid sensor?</p> <p>14 A. Yes.</p> <p>15 Q. Have you found any of these products to 16 be defective because they're susceptible to 17 valve clogging?</p> <p>18 A. Yes.</p> <p>19 Q. Have you found any of these products to 20 be defective because it lacked an antilock 21 shield to protect against or reduce the risk 22 of valve clogging?</p> <p>23 A. Yes, but I would expand that to say 24 either a shield or like a full baffle which</p>
<p style="text-align: center;">47</p> <p>1 those have might have also been stovetops as 2 well if I remember right.</p> <p>3 Q. All right. You make a good point. I'm 4 going to go back and ask you that question 5 when we're done with this list.</p> <p>6 How about NuWave pressure cookers?</p> <p>7 A. That sounds -- that does sound familiar, 8 but I don't have a specific recollection of 9 seeing one of those, but I bet I have.</p> <p>10 Q. All right. Cosori?</p> <p>11 A. Yes.</p> <p>12 Q. Wolfgang Puck?</p> <p>13 A. Yes.</p> <p>14 Q. Any others that you can think of that I 15 didn't list?</p> <p>16 A. Well, for some reason the name Bella is 17 coming to mind, but I don't recall what the 18 manufacturer's name is. That might just be a 19 brand.</p> <p>20 Q. Okay. Any others?</p> <p>21 A. Not that I can think of. There may be, 22 but I can't think of any.</p> <p>23 Q. In any of these pressure cooker cases, 24 did you write reports saying that the product</p>	<p style="text-align: center;">49</p> <p>1 because it lacked an appropriate locking 2 mechanism; is that fair?</p> <p>3 A. That's true in many of the cases, yes.</p> <p>4 Q. Okay. Is that a lack of a locking 5 mechanism or an inadequate locking mechanism?</p> <p>6 A. No, I think they all have locking 7 mechanisms that they believe are locking 8 mechanisms, but in many cases the mechanisms 9 are not sufficient locks meaning you can just 10 open them by hand.</p> <p>11 Q. And you don't express that opinion in 12 this Durham matter, do you?</p> <p>13 A. That's true.</p> <p>14 Q. Have you found a product, a pressure 15 cooker to be defective because the float 16 valve is too low and not visible to the user?</p> <p>17 A. Yes, I do.</p> <p>18 Q. Have you found a product, a pressure 19 cooker to be defective because the float 20 valve is too high and subject to being 21 accidentally depressed and unlocked by the 22 user?</p> <p>23 A. You know, I don't specifically recall 24 that. I guess that could have -- that could</p>
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<p style="text-align: center;">51</p> <p>1 is common on some designs.</p> <p>2 Q. Have you ever found a product, a</p> <p>3 pressure cooker defective because the valves</p> <p>4 weren't adequately accessible to the user?</p> <p>5 A. Acceptable? I'm sorry.</p> <p>6 Q. Accessible.</p> <p>7 A. Access --</p> <p>8 Q. They couldn't be reached by the user for</p> <p>9 cleaning and maintenance.</p> <p>10 A. That I don't recall.</p> <p>11 Q. All right. Have you found any other</p> <p>12 defects in pressure cookers?</p> <p>13 A. Well, there are some pressure cookers</p> <p>14 that open, that close counterclockwise and</p> <p>15 open clockwise, which is the opposite of</p> <p>16 every, almost every other consumer product in</p> <p>17 the world.</p> <p>18 Q. And you consider that a defect?</p> <p>19 A. Yeah, because that can easily lead to</p> <p>20 operator confusion. That's not the case</p> <p>21 here. I believe the Instant Pots closed in</p> <p>22 my opinion the correct way.</p> <p>23 Q. All right. Any other defects you found</p> <p>24 over the course of your work?</p>	<p style="text-align: center;">53</p> <p>1 mind have many multiple defects, not just</p> <p>2 one.</p> <p>3 Q. Can a pressure cooker be designed</p> <p>4 safely?</p> <p>5 A. I'm sure that it could, yeah.</p> <p>6 Q. What's the safest pressure cooker out</p> <p>7 there? Do you have an opinion on that?</p> <p>8 A. I guess I don't -- I guess I don't know.</p> <p>9 I guess I don't know.</p> <p>10 Q. Have you ever concluded in your work</p> <p>11 that user error and not a defect, not a</p> <p>12 defect was the cause of the user's injuries?</p> <p>13 A. I think that I have concluded that the</p> <p>14 user behavior certainly contributed, meaning</p> <p>15 the user would open it under pressure, while</p> <p>16 it was under pressure, meaning that the user</p> <p>17 behavior contributed to the event and without</p> <p>18 that behavior the event wouldn't occur.</p> <p>19 I know that I've had that opinion</p> <p>20 many times, but it's my opinion that if the</p> <p>21 design allows the user to open it, then the</p> <p>22 design is defective. The design should not,</p> <p>23 should prevent that from occurring.</p> <p>24 MR. KRESS: Dennis, do you mind if</p>
<p style="text-align: center;">52</p> <p>1 A. Some of the interlock mechanisms are</p> <p>2 defective because they can bend over time,</p> <p>3 meaning they're weak, meaning they may start</p> <p>4 stronger but then after being used may become</p> <p>5 weaker. I would say that some of them have</p> <p>6 interlock mechanisms that, that can be</p> <p>7 defeated if the lid assembly becomes loose.</p> <p>8 That's mostly for stovetops. That's not for</p> <p>9 electronics in general. I'd say that's</p> <p>10 probably it. I'd say otherwise you've listed</p> <p>11 them.</p> <p>12 Q. Okay. Do you think pressure cookers</p> <p>13 should be taken off the market?</p> <p>14 A. I think that -- I think that many of</p> <p>15 them should, yeah.</p> <p>16 Q. Which brands do you believe should be</p> <p>17 taken off the market?</p> <p>18 A. Well, I would say that any of the brands</p> <p>19 that don't have the proper locking mechanism</p> <p>20 or the proper lid detection mechanism or the</p> <p>21 proper I would say valve protection or</p> <p>22 anti-clog protection mechanism, but those are</p> <p>23 the -- those are the key ones that come to</p> <p>24 mind. Most of the pressure cookers keep in</p>	<p style="text-align: center;">54</p> <p>1 we take a quick five-minute break?</p> <p>2 MR. CALLAHAN: Before I forget can</p> <p>3 I ask my stovetop electronic questions and</p> <p>4 then just kind of close this loop?</p> <p>5 MR. KRESS: 110 percent. Go for</p> <p>6 it.</p> <p>7 MR. CALLAHAN: All right. Thanks.</p> <p>8 Actually two questions, Adam. Sorry, I lied</p> <p>9 to you.</p> <p>10 MR. KRESS: No problem.</p> <p>11 BY MR. CALLAHAN:</p> <p>12 Q. As far as user error, is that something</p> <p>13 you consider in every case?</p> <p>14 A. That's always considered. The user</p> <p>15 behavior is always considered.</p> <p>16 Q. All right. And in every case where you</p> <p>17 found a defect, you concluded that user error</p> <p>18 wasn't, wasn't the cause of the accident?</p> <p>19 A. I would say that user behavior</p> <p>20 contributed in many of the cases, but there</p> <p>21 were some cases where it didn't even come in</p> <p>22 at all.</p> <p>23 Q. All right. You mentioned stovetop and</p> <p>24 electronic pressure cookers. They are</p>

<p style="text-align: center;">55</p> <p>1 fundamentally different devices; correct? 2 A. Well, they're different in the method by 3 which heat is applied to the cooker and the 4 electronic ones usually have electronics in 5 addition to the other mechanisms that are 6 present on the stovetop. So they're 7 definitely different, but I think the 8 fundamentals are the same, like they both 9 require heat to generate pressure which 10 causes food to cook at a higher temperature. 11 So from the physics fundamentals they're the 12 same. From the design standpoint I think 13 there are a lot of differences.</p> <p>14 Q. Okay. When we were talking about 15 pressure cookers before and the number of 16 pressure cooker cases you've evaluated, how 17 many were electronic and how many were 18 stovetop?</p> <p>19 A. I would say that the vast majority are 20 electronic. I don't have a specific number 21 because we don't keep track of that, but I 22 know the vast majority were electronic.</p> <p>23 Q. Could you put a rough percentage on 24 that?</p>	<p style="text-align: center;">57</p> <p>1 Q. In your PhD work you applied the 2 scientific method; correct? 3 A. That's correct. 4 Q. And when you wrote your thesis you had 5 to support your results and your hypothesis 6 with facts and experimental results; right? 7 A. I did. 8 Q. You had to justify your conclusions to 9 the scientific community, community 10 represented by your PhD committee? 11 A. Correct. 12 Q. You generally -- well, essentially you 13 had to convince that committee that your 14 conclusions in your thesis were worthy of 15 general acceptance in the scientific 16 community? 17 A. I think that's fair. 18 Q. And if you hadn't presented facts and 19 data to support your conclusions, the 20 committee would have rejected your thesis? 21 A. I guess I don't know. I don't know. I 22 would -- maybe. 23 Q. Wasn't the whole point the review 24 process?</p>
<p style="text-align: center;">56</p> <p>1 A. No. I mean -- 2 Q. Something greater than 51-49, right? 3 A. It's definitely greater than 51-49. I 4 would say it's probably -- 5 Q. 90-10? 6 A. Yeah, I would say maybe I'd say between 7 70 and 90 percent electronic, somewhere in 8 that range, you know. I don't have a 9 specific number. It's really -- that's very 10 hard, but that's a very rough estimate, but 11 that's probably the best I can do.</p> <p>12 MR. CALLAHAN: All right. Thank 13 you. We can take a break.</p> <p>14 THE VIDEOGRAPHER: Off the record. 15 The time is 2:02. 16 (Recess; 2:02 p.m.) 17 - - - 18 (Resumed; 2:08 p.m.) 19 THE VIDEOGRAPHER: Back on the 20 record, 2:08. 21 BY MR. CALLAHAN: 22 Q. Are you familiar with the scientific 23 method, sir? 24 A. Yes.</p>	<p style="text-align: center;">58</p> <p>1 A. The review process I think was to ensure 2 that, that the work was done in a competent 3 fashion and was presented in a competent 4 fashion, but that doesn't necessarily mean 5 that the whole engineering community would 6 accept it as gospel. I don't -- I don't know 7 all that's true.</p> <p>8 Q. Fair. But if you had just written I 9 think X is true, trust me, you would not have 10 your PhD now; right?</p> <p>11 A. That's probably true.</p> <p>12 Q. Okay. You had to present facts and data 13 to support your conclusions; right?</p> <p>14 A. I believe that's true.</p> <p>15 Q. All right. And if you hadn't, the 16 committee would be correct in rejecting your 17 hypothesis as unsupported; right?</p> <p>18 A. If they felt that additional work needed 19 to be done, they would have told me.</p> <p>20 Q. Okay. The scientific method generally 21 is you collect the data; right?</p> <p>22 A. Well, usually the --</p> <p>23 Q. Step one?</p> <p>24 A. -- scientific method -- no. Usually the</p>

<p style="text-align: center;">59</p> <p>1 first step is to evaluate your hypothesis 2 meaning what do you think is happening. 3 Q. Okay. 4 A. Then the second step would be to 5 evaluate that, and then the third step would 6 be to draw conclusions. 7 Q. Okay. Your first step is create the 8 hypothesis? 9 A. Correct. You want to evaluate what you 10 believe is occurring. 11 Q. All right. Until the hypothesis is 12 proven it's just a hypothesis; right? 13 A. Well, I mean at that point it's 14 something that, that could happen, but it's 15 not something that you've not necessarily 16 demonstrated physically. 17 Q. All right. It could happen, it could 18 not happen until you demonstrate that it's 19 true; right? 20 A. Well, no. You can use physics to 21 demonstrate that something could happen. I 22 think if you want to do -- if you wanted to 23 evaluate statistically how often it happens 24 and what it takes to happen, then you would</p>	<p style="text-align: center;">61</p> <p>1 example. It's my opinion in this case that 2 the most likely scenario is clogging of the 3 float valve which allows pressure to build 4 without the float valve sealing and engaging 5 the interlock. 6 We know that certain foods will 7 perform the clogging mechanism, right. I've 8 tested other pressure cookers where we've 9 been able to clog orifices with foods that 10 are fibrous or foods that are fatty or foods 11 that combine with each other to make sort of 12 a gummy substance stuff, you know, something 13 that clogs. 14 I know that from experience that 15 it's, that it's possible to clog these 16 valves. I also know from experience that the 17 lid can be opened when they're under pressure 18 if the interlock is not interlocking. 19 You can combine those experiences 20 along with the physics to then say that the 21 most likely scenario is that a clogging while 22 the interlock is not interlocking can allow 23 for an opening under pressure which is 24 described in this case. And in my opinion,</p>
<p style="text-align: center;">60</p> <p>1 need to do more work if you wanted to fill in 2 the statistics. 3 Q. All right. It sounds like what you're 4 describing is just proof of concept, like I 5 think this could happen. That's your 6 hypothesis; right? 7 A. Yeah, but if it's based upon physics and 8 your experience then it's not just, well, I'm 9 going to make up something and it's random, 10 here it is. It's something that's based on 11 physics and experience so that you can say, 12 yeah, I believe that this is -- this is how 13 it's going to happen, and you do have physics 14 and experience to support it, but you can't 15 say statistically how often or when unless 16 you want to support that statistics with 17 testing. 18 Q. All right. And you also can't even 19 determine whether it will happen until you do 20 some further work; right? I mean, you just 21 can't rely on one experiment? 22 A. No, you can rely on physics, right. The 23 physics will tell you. So, for example, 24 let's take the pressure cooker for an</p>	<p style="text-align: center;">62</p> <p>1 that does follow the scientific method and 2 that is relying upon physics and experience 3 to do it. 4 Now, am I saying how often it 5 happens or what the statistics are about it, 6 no, I'm not, because if I wanted to do 7 that -- like let's say, for example, I wanted 8 to say that it's impossible for this to 9 happen. Well, then you'd actually have to do 10 a statistically complete study in order to 11 say that, right, because one in a hundred is 12 not the same as it's not possible. 13 And so I'm not providing 14 statistics, and I don't know if any of the 15 other experts in this case are, but if you 16 wanted to say that it was impossible or that 17 it's only possible at this frequency, then 18 you would need to do the statistical studies 19 to support that, but if you just want to say 20 that it is possible, in my opinion you are 21 following the scientific method when you rely 22 on physics and experience to do so. 23 Q. Okay. So are you characterizing your 24 opinion and the application of the scientific</p>

<p style="text-align: center;">63</p> <p>1 method by stating your opinion, this is 2 possible, in some statistical whatever, it's 3 possible? That's all you're saying; right? 4 A. Well, in this case I would say that it's 5 possible and it's also what's described by 6 the witnesses, which means that it's the 7 scenario that best matches the, the 8 description of the witnesses.</p> <p>9 Q. All right. And in your application of 10 the scientific method in this case, it's your 11 opinion that testing isn't necessary?</p> <p>12 A. Not if -- no. It is my opinion that 13 testing isn't necessary, however, if someone 14 were to rely on testing to prove the 15 opposite, to prove that it's not possible, 16 then they would have to perform a 17 statistically complete study, you know, not 18 two or four or ten tests. That's nowhere 19 near statistically complete.</p> <p>20 So if you wanted to say that it 21 was impossible, then you'd have to do a 22 statistically complete study. If you want to 23 say that it is possible, all you have to 24 demonstrate is that it's physically possible,</p>	<p style="text-align: center;">65</p> <p>1 stating that the float valve clogged? 2 A. For Instant Pot? 3 Q. Yeah. 4 A. You know, I don't know. I don't know. 5 Q. You can't tell me any other case here 6 where that, where you wrote that report? 7 A. Yeah, I don't recall. 8 Q. So in your experience you can't offer 9 any other Instant Pot case where the float 10 valve clogged causing this type of incident? 11 A. No. I just don't know that I've ever 12 written any reports for any of those other 13 cases.</p> <p>14 Q. And again my question was you can't 15 point to any case. You have no other 16 incident to point to to support your 17 conclusion here, do you?</p> <p>18 A. I guess not specifically. I mean, I 19 recall that there was a California lawyer who 20 had an Instant Pot case that came to us, 21 maybe two, but the description of those 22 events is consistent with the clogging event. 23 I don't remember the name of that attorney, 24 and I -- and I'm sure there have been other.</p>
<p style="text-align: center;">64</p> <p>1 meets the description and meets your 2 experience, because you're not saying how 3 often it's possible. It could be one in a 4 hundred. It could be -- could be one in a 5 thousand.</p> <p>6 Q. It could be one in a hundred million, 7 couldn't it?</p> <p>8 A. I guess I wouldn't rule that out. That 9 to me seems unlikely, but simply because, you 10 know, I've probably seen half a dozen or a 11 dozen Instant Pot cases where people describe 12 events very much like they're described here. 13 And I -- it's not -- I'm not aware that 14 Instant Pots have sold tens or hundreds of 15 millions of units. So I guess if you want to 16 give me a hypothetical for those kinds of 17 really high numbers, you'd have to -- you'd 18 have to demonstrate that to me.</p> <p>19 Q. How many Instant Pot cases have you 20 evaluated?</p> <p>21 A. I would estimate, I'm going to ballpark 22 it around 10-ish, but I'm not sure. It could 23 be more.</p> <p>24 Q. How many times have you written a report</p>	<p style="text-align: center;">66</p> <p>1 I just don't remember all the cases 2 specifically, so I can't give you a specific 3 name.</p> <p>4 Q. But you haven't written a report stating 5 that. That is -- that is certain, right?</p> <p>6 A. Well, that's not certain. I just don't 7 recall writing a report for an Instant Pot 8 where that was the case. I just don't 9 recall.</p> <p>10 Q. All right. So the way you're applying 11 the scientific method here, do you believe 12 that's a generally accepted application?</p> <p>13 A. As long as you recognize that you're not 14 going to be able to give a statistically 15 complete answer, then yes.</p> <p>16 Q. All right. Is your -- and you can't 17 offer any statistics? You're not doing that; 18 right?</p> <p>19 A. I am not doing that, correct.</p> <p>20 Q. Okay. In your -- well, let me ask it 21 this way. In your review of this case did 22 you analyze the information fairly?</p> <p>23 A. I believe I did, yes.</p> <p>24 Q. And would you agree that -- well, and</p>

<p style="text-align: center;">67</p> <p>1 the information in this case is essentially 2 data to a scientist; right? All the 3 information is the data; is that fair? 4 A. Yeah, I think you could call it that. 5 Q. Okay. So the data can come from an 6 examination of the -- well, your associate's 7 physical examination of the unit; right? 8 A. And my physical examination of it as 9 well. 10 Q. Okay. And one test you conducted on the 11 unit; correct? 12 A. Um, yeah, I would include that, yeah. 13 Q. All right. And the data would also be 14 the testimony of the witnesses; correct? 15 A. That's true. 16 Q. Any other data sources that you can 17 consider here? 18 A. Well, I usually consider the -- well, I 19 have -- in this case, for example, I have 20 videos and photographs to consider from the 21 other expert. 22 Q. Okay. 23 A. From Mr., I think it's Mr. or Dr. 24 Matisse. I don't recall. I don't want to</p>	<p style="text-align: center;">69</p> <p>1 I've seen testimony from probably thousands 2 of witnesses over the years, probably many 3 thousands, and it's not uncommon in my 4 experience for witnesses to not be 100 5 percent accurate in their recollections. I 6 mean, that's almost impossible I think in my 7 opinion. 8 Q. But that's true with anybody; right? I 9 mean, you talk to somebody on the street 10 corner about what happened on Friday; right? 11 A. Oh, no, I one hundred percent agree with 12 you, yeah. 13 Q. All right. Is your expertise any 14 different than anybody else on the street? 15 A. In terms of that, like in terms of that 16 in psychology, no, it wouldn't be any 17 different. I'm not a psychologist. 18 Q. Okay. Applying the scientific method, 19 does it sometimes happen you just don't have 20 a solution because of a lack of data? 21 A. Yeah, I guess that could be possible. 22 Yeah. 23 Q. Sometimes conflicting data would lead to 24 the inability to draw a conclusion?</p>
<p style="text-align: center;">68</p> <p>1 mess up, mess that up, so I would also 2 include that. 3 I guess I would include the 4 documents that were provided to me in the 5 case, not just the depositions, but also 6 whatever information was available through 7 that documentation. 8 Q. All right. Anything else? 9 A. No, I think that's it. 10 Q. Applying the scientific method, what do 11 you do if the data doesn't agree or if there 12 is conflicts in the data? 13 A. You evaluate it in its entirety and you 14 look for what is consistent, what is the most 15 consistent scenario or solution that applies, 16 because it's quite common for witnesses to, 17 you know, misremember things or not have 18 specifics in terms of time, size, distance. 19 You know, those things are typically not well 20 remembered based on my experience. 21 Q. You don't have any special expertise in 22 judging what a witness can or cannot 23 remember, do you? 24 A. Not as a psychologist, no, but I mean</p>	<p style="text-align: center;">70</p> <p>1 A. It could. 2 Q. And applying -- and analyzing the 3 information fairly in this case, do you think 4 you can lead to a conclusion about what 5 occurred? 6 A. Yeah, I -- yeah, I do believe so, and I 7 believe that I've already stated what I think 8 the most likely scenario is. 9 Q. All right. 10 Turning back to your report. We 11 marked it as Exhibit 1, 12 pages; right? 12 A. Yes. 13 Q. And just so it's clear for the record, 14 your report was dated August 12th of 2022? 15 A. Yes. 16 Q. That's the only report you've written? 17 A. For this case, yes. 18 Q. I'll bring it up so we're all looking at 19 the same document. Sorry. You've prepared 20 perhaps thousands of reports over the course 21 of your consulting career? 22 A. Yeah. It's been almost 30 years. Yeah, 23 that's probably fair. I mean, I guess I 24 don't have a number, but it's a lot .</p>

<p style="text-align: center;">71</p> <p>1 Q. All right. And do you have an 2 understanding of the purpose of your report 3 and your expert disclosure?</p> <p>4 A. Well, my understanding of it is it's to 5 express my opinions and the description and 6 support for those opinions.</p> <p>7 Q. All right. Is it your understanding 8 that your report is to be a complete 9 statement of all opinions?</p> <p>10 A. That does sound -- that sounds fair.</p> <p>11 Q. And would you agree your report is 12 intended to be a complete statement of the 13 basis for those opinions?</p> <p>14 A. I would say my report plus my file in 15 its entirety as well as my experience would 16 all support the opinions in the report.</p> <p>17 Q. All right.</p> <p>18 A. The report is not -- by the way, the 19 report is not intended to include everything 20 that's in my file, right. That's not -- I 21 don't take that to be the understanding of my 22 report.</p> <p>23 Q. All right. But you do, you do 24 understand this to be a complete statement of</p>	<p style="text-align: center;">73</p> <p>1 opinions?</p> <p>2 A. That is true.</p> <p>3 Q. And you'd agree that everything you 4 relied on in preparing your report has been 5 either identified in the report or identified 6 in the file that was sent to me?</p> <p>7 A. Right, or identified as part of my 8 professional experience.</p> <p>9 Q. Did you withhold any opinions from us?</p> <p>10 A. No, I don't think so.</p> <p>11 Q. You'd agree that good engineering and 12 scientific practice requires you to disclose 13 all of the facts and data you considered; 14 correct?</p> <p>15 A. I think that's fair.</p> <p>16 Q. And would good engineering and 17 scientific practice require you to consider 18 all reasonable alternatives or explanations?</p> <p>19 A. Yes, I think that's fair.</p> <p>20 Q. Is it your opinion that you applied good 21 engineering and scientific practices in this 22 evaluation?</p> <p>23 A. Yes.</p> <p>24 Q. Do you agree that if an opinion isn't</p>
<p style="text-align: center;">72</p> <p>1 your opinions?</p> <p>2 A. I do. I think that's fair, yeah.</p> <p>3 Q. And is it?</p> <p>4 A. Yes, it is.</p> <p>5 Q. Does the report and your expert file 6 disclose all the facts and data you 7 considered in forming your opinions?</p> <p>8 A. That plus just my professional 9 experience, but that's obviously not entirely 10 included in the file.</p> <p>11 Q. All right. And is it your understanding 12 the report is intended to disclose any 13 exhibits you've used to summarize your 14 opinion at trial?</p> <p>15 A. Well, I don't know that the report's 16 intended to have trial exhibits if that's 17 what you're suggesting because that isn't my 18 understanding.</p> <p>19 Q. All right. It does not is what you told 20 me before; right?</p> <p>21 A. Yeah. Like so for example -- yeah, I 22 would say it does not, yeah.</p> <p>23 Q. Okay. But you do agree that your report 24 is the complete statement of all of your</p>	<p style="text-align: center;">74</p> <p>1 stated in the report, it is either not 2 scientifically supportable or not relevant to 3 this case?</p> <p>4 A. Or it's not an opinion that I hold.</p> <p>5 Q. Yes.</p> <p>6 A. I mean, there are plenty of opinions 7 that are not in the report, right, but they 8 don't apply.</p> <p>9 Q. True. And I'm not going to ask you 10 opinions of what you think of me either. 11 I'll restate my question. If an opinion of 12 yours isn't stated in the report it's either 13 because you don't hold that opinion, it's not 14 scientifically supportable, or it's not 15 relevant for the case; is that fair?</p> <p>16 A. I think that's fair.</p> <p>17 Q. I think I asked you, but maybe I didn't 18 ask you before. Do you plan on doing any 19 additional work in this case?</p> <p>20 A. Yeah, that was one of your first 21 questions. I'm going to look at what other 22 experts have to say in deposition or 23 otherwise, their entire files. If I feel 24 like additional work needs to be done to</p>

<p style="text-align: center;">75</p> <p>1 address what they say or what they have in 2 their file, then I would do that. If I'm 3 asked to prepare some kind of exhibit or 4 assist in the preparation of an exhibit for 5 trial if it goes to trial, I would do that. 6 If it goes to trial, I would also prepare for 7 trial.</p> <p>8 Q. All right. But you don't have anything 9 planned currently?</p> <p>10 A. That's true.</p> <p>11 Q. Okay. I'm going to skip ahead to the 12 end the story here on Page 4 of your report. 13 You can see this, right, I'm sharing?</p> <p>14 A. I can, yes, and I've also got it up on 15 my screen as well, full size as well, so yes, 16 I do see that.</p> <p>17 Q. Section 7, Conclusions and Opinions, you 18 state four conclusions here; right?</p> <p>19 A. Correct.</p> <p>20 Q. And your report which you intended to be 21 complete only has these four conclusions; 22 right?</p> <p>23 A. That's correct.</p> <p>24 Q. All right. Up here you have a phrase</p>	<p style="text-align: center;">77</p> <p>1 A. That's true.</p> <p>2 Q. You're not certain, but you don't know 3 how uncertain you are?</p> <p>4 A. I know I am certain to a degree of 5 engineering certainty which to me means it's 6 the most likely. I cannot give you a number 7 for that.</p> <p>8 Q. All right. "Most likely" meaning what, 9 51 percent chance?</p> <p>10 A. I cannot give you a number for that.</p> <p>11 Q. Well, could it most likely be 10 12 percent?</p> <p>13 A. No. I think most likely it would have 14 to be at least 51 percent.</p> <p>15 Q. So somewhere between 51 and 99.99?</p> <p>16 A. Yeah, if you want to give it a range.</p> <p>17 Q. Is that the best range you can give it?</p> <p>18 A. I cannot give you a number or a range 19 any different.</p> <p>20 Q. You do have agree there is some 21 uncertainty though?</p> <p>22 A. There, there is always uncertainty. 23 Physics dictates that. There is always 24 uncertainty.</p>
<p style="text-align: center;">76</p> <p>1 listed -- "Your conclusions and opinions 2 listed below are to a degree of engineering 3 certainty."</p> <p>4 A. Yes.</p> <p>5 Q. What does that mean?</p> <p>6 A. That means that in my opinion they are 7 the most likely -- they're -- they're, well, 8 I guess more likely than not to be true, 9 meaning that you can never be 100 percent 10 certain on anything. I mean, physics just 11 clearly just dictates that.</p> <p>12 So the -- so my opinion, what I'm 13 stating is that my opinions are true to, to a 14 degree that's less than 100.00 percent, but 15 are the most likely scenarios and most likely 16 to be true.</p> <p>17 Q. Well, you put a percentage there. Can 18 you give me a percentage of how certain your 19 conclusions are?</p> <p>20 A. No. I can tell you that they're not 21 100.00 because nothing can be. Physics 22 dictates that.</p> <p>23 Q. All right. And you can't give me any 24 other estimate than that?</p>	<p style="text-align: center;">78</p> <p>1 Q. And your conclusions are based upon your 2 current understanding of the facts; right?</p> <p>3 A. That's true.</p> <p>4 Q. You didn't state that. If new 5 information becomes available you may modify 6 your opinions; right?</p> <p>7 A. I did.</p> <p>8 Q. You did, meaning you said that you 9 haven't changed your opinions yet; right?</p> <p>10 A. I did state that. I thought that was 11 your question was if I stated that.</p> <p>12 Q. My question might have been a little 13 vague. I'm sorry.</p> <p>14 A. I did state that as the answer.</p> <p>15 Q. Okay. If the facts -- well, you have a 16 certain understanding of the facts; right?</p> <p>17 A. I do.</p> <p>18 Q. All right. And if that understanding 19 were to change, your opinions might change; 20 correct?</p> <p>21 A. That's true.</p> <p>22 Q. And if you -- you would agree that if a 23 plaintiff's recollection of the events 24 changes materially your opinions might change</p>

<p style="text-align: center;">79</p> <p>1 as well; correct?</p> <p>2 A. That's true.</p> <p>3 Q. And would you agree that if the jury</p> <p>4 rejects your scenario, your factual</p> <p>5 determinations and determines a different set</p> <p>6 of facts that the jury would be justified in</p> <p>7 rejecting your conclusions based upon your</p> <p>8 facts?</p> <p>9 A. I have no idea how to evaluate whether a</p> <p>10 jury is justified or not. I don't know how</p> <p>11 to do that.</p> <p>12 Q. Okay. Well, let me ask it this way.</p> <p>13 Well, I'll go with what I asked.</p> <p>14 You have four conclusions; right?</p> <p>15 A. Yes.</p> <p>16 Q. Can you rank them as to which one is the</p> <p>17 most certain?</p> <p>18 A. No, I don't know that I would rank them.</p> <p>19 I mean, I would say that number 1 is probably</p> <p>20 the lowest because that first opinion is only</p> <p>21 an opinion that had Instant Pot not performed</p> <p>22 a suitable risk assessment that would</p> <p>23 contribute, but, and I have no evidence that</p> <p>24 they did perform such a risk assessment, but</p>	<p style="text-align: center;">81</p> <p>1 I think a number of times, and the answer is</p> <p>2 I don't have a number for you. I'm not going</p> <p>3 to give you a percentage number because I</p> <p>4 don't believe that can be done.</p> <p>5 Q. Okay. I'm going to start with</p> <p>6 Conclusion No. 1. You say it appears</p> <p>7 unlikely that Instant Brands performed a</p> <p>8 proper risk assessment. How unlikely?</p> <p>9 A. I can't give you a number on that, but I</p> <p>10 can tell you that they haven't -- I haven't</p> <p>11 seen anything produced by Instant Pot that</p> <p>12 demonstrates that they did perform such a</p> <p>13 risk assessment.</p> <p>14 Q. Have you seen anything that they didn't?</p> <p>15 A. I, I guess I haven't seen a document</p> <p>16 that Instant Pot says we chose not to do it.</p> <p>17 I haven't seen that document if that's what</p> <p>18 you're asking.</p> <p>19 Q. Okay. So you don't have any evidence</p> <p>20 either way?</p> <p>21 A. Well, what I have is no evidence that it</p> <p>22 actually occurred and I would assume that a</p> <p>23 competent engineering department would have</p> <p>24 kept such a document and that it would have</p>
<p style="text-align: center;">80</p> <p>1 I don't -- honestly, since I wasn't present</p> <p>2 at Instant Pot during the entire design and</p> <p>3 development phase, I can't say I was there</p> <p>4 and that they didn't do it.</p> <p>5 Q. All right. Can you rank if that's the</p> <p>6 least certain what's the next least certain?</p> <p>7 A. Well, I mean, I don't know that I'm</p> <p>8 necessarily ranking them, but I would say</p> <p>9 that based upon the opinion itself that's how</p> <p>10 I would probably put it in the ranking. The</p> <p>11 others I'd say are probably all together all</p> <p>12 about the same. They're all kind of related</p> <p>13 to each other.</p> <p>14 Q. All right. I'm just trying to get -- I</p> <p>15 mean, you wrote in your report "degree of</p> <p>16 engineering certainty" and these are your</p> <p>17 opinions, not mine. I'm just trying to get a</p> <p>18 sense of how certain you are. Are they</p> <p>19 all -- so it's your testimony 2 through 4 are</p> <p>20 all the same level of certainty?</p> <p>21 A. No, it's my testimony that I can't give</p> <p>22 you a number for any of that. And I really</p> <p>23 don't know how else to -- you can ask it more</p> <p>24 times if you'd like. It's already been asked</p>	<p style="text-align: center;">82</p> <p>1 been produced when it was asked for. That</p> <p>2 would be my assumption. Now, I may be wrong.</p> <p>3 Maybe they threw it away. Maybe they did the</p> <p>4 work and said, well, we don't really care,</p> <p>5 let's just burn it, or maybe they chose not</p> <p>6 to share it. I honestly don't know because</p> <p>7 I'm not in their heads. I can't answer that.</p> <p>8 What I can tell you is that I haven't seen</p> <p>9 any evidence that they did perform them.</p> <p>10 That's all.</p> <p>11 Q. All right. Is this a scientific opinion</p> <p>12 or conclusion or is this just you evaluating</p> <p>13 the evidence?</p> <p>14 A. That one is an evaluation of the</p> <p>15 evidence. Well, I guess it's also scientific</p> <p>16 in the sense that it's my opinion that it</p> <p>17 should have been done, but it's essentially</p> <p>18 an evaluation of the evidence.</p> <p>19 Q. But your opinion that it should have</p> <p>20 been done is not a scientific conclusion. It</p> <p>21 doesn't apply the laws of physics to that,</p> <p>22 does it?</p> <p>23 A. No, but it does apply good engineering</p> <p>24 practice.</p>

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<p>1 Q. All right. I mean, the performance of a 2 risk assessment is a fact, right? Either 3 they did or they didn't? 4 A. I guess so, yeah. 5 Q. Right. And all you're saying in this 6 first conclusion is you haven't seen any, you 7 haven't seen any evidence that they did or 8 they didn't. That's your opinion or that's 9 your statement; right? 10 A. Yeah. And if you have evidence that 11 you'd like to show me that they did do it, 12 I'd be happy to review it, but it's my 13 understanding that that was asked for and it 14 was not provided which to me says that there 15 is no evidence that it's been done. 16 Q. Who manufactured the unit? 17 A. You know, I'd have to look at my notes. 18 I believe it's a manufacturer in Asia, but I 19 don't have that memorized. 20 Q. A manufacturer other than Instant 21 Brands, the defendant? 22 A. Yeah. I believe that Instant Brands 23 hired somebody to manufacture it. That's my 24 understanding.</p>	<p>1 A. I guess not necessarily, but without 2 doing it the designer, distributor, 3 manufacturer or whoever it is that's bringing 4 the product forward won't know. They won't 5 know if it's safe or not without doing it, 6 and that's why it ought to get done. 7 Q. Is the product necessarily safe if this 8 assessment is done? 9 A. If it's done properly then the product 10 will be either safe or at least the hazards 11 will be known, but -- but I wouldn't 12 guarantee that it's safe because, I mean, you 13 can do a risk assessment and then still 14 choose to sell a hazardous product if you 15 want. I imagine that's not likely. 16 Q. Does a risk assessment require a 17 quantification of the risk? 18 A. To a certain degree, yes, meaning that 19 most risk assessments do assign rough 20 approximate values like, you know, 0 to 9 or 21 1 to 10 depending on how you do it to certain 22 levels of risk, like what is the level of 23 risk, what is the likelihood of occurrence, 24 what is the likelihood of determination if it</p>
84	86
<p>1 Q. All right. Do you know if that 2 manufacturer did a risk assessment during the 3 design process? 4 A. That I don't know. If they did I would 5 have hoped that it would have been provided, 6 but I don't know the answer to that since I'm 7 not there. 8 Q. Who would have provided it? 9 A. Well, presumably the manufacturer would 10 have provided it to Instant Brands because 11 Instant Brands would want to make sure that 12 it was done and then Instant Brands would 13 have it in their file. 14 Q. Again, this is your personal assumption? 15 A. That's my opinion on this case and how 16 it should have been done had it been done 17 competently. 18 Q. Is this FMEA assessment required by any 19 standard, any written standard? 20 A. I don't know that there is a written 21 standard or regulation requiring it. It's 22 just good engineering practice. 23 Q. Is a product necessarily unsafe if the 24 assessment is not completed?</p>	<p>1 does exist. 2 So there can be numbers applied, 3 but they're not like, you know, they're rough 4 numbers, but you can use quantities if you 5 like as part of doing the risk assessment. 6 That is possible. 7 Q. Have you done a risk assessment here? 8 A. I have not been hired to do a risk 9 assessment for this product, no. 10 Q. So you haven't done one? 11 A. Not for this product, correct. 12 Q. Is it your opinion that because the 13 product is defective, the assessment likely 14 wasn't done? Is that the nature of your 15 opinion? 16 A. Yes. Yeah, that essentially, that is 17 essentially what it boils down to. 18 Q. And you'd agree in every report that 19 you've ever written that do say the product 20 is defective you've included this exact 21 language? 22 A. I've included similar language, risk 23 assessment language to many of my reports. I 24 don't know if it's in every report, but many</p>

<p style="text-align: center;">87</p> <p>1 of them do include it because in my opinion 2 that's a very important part of engineering 3 design.</p> <p>4 Q. Would you agree that this risk 5 assessment analysis or this paragraph in 6 Paragraph 1 really focuses on the conduct of 7 the parties involved?</p> <p>8 A. I would say that it focuses on the 9 engineering design, that part of their 10 conduct, if you want to call it conduct. I 11 would say it's the engineering design.</p> <p>12 Q. All right. But it's people doing it; 13 right?</p> <p>14 A. It's always people doing it. I'm not 15 aware of any engineering designs that happen 16 out of thin air.</p> <p>17 Q. All right. But you're, you're saying 18 that the conduct of the people who were 19 responsible for designing the product was 20 somehow lacking; right? That's what you're 21 saying?</p> <p>22 A. I'm saying that the engineering design 23 is lacking.</p> <p>24 Q. Okay. It's a process oriented opinion</p>	<p style="text-align: center;">89</p> <p>1 they've got differences, but at the core I 2 think their designs are fairly, fairly 3 similar.</p> <p>4 Q. Okay. Do you own a pressure cooker at 5 home?</p> <p>6 A. My wife does have a pressure cooker, 7 although I don't know that she ever uses it, 8 but I think she bought one, yeah, many years 9 ago.</p> <p>10 Q. What brand?</p> <p>11 A. I think it's an Instant Pot. I guess 12 I'm not sure, but I think it is. I think 13 that's what she got.</p> <p>14 Q. Have you told her not to use it?</p> <p>15 A. Well, I've told her about all these 16 cases and I've warned her. I haven't seen 17 her use it actually, I don't know, maybe in 18 years. I don't know if she still uses it or 19 not.</p> <p>20 Q. She has used it though?</p> <p>21 A. I'm sure she's used it at least once, 22 yeah, because I think I've seen her use it at 23 least once.</p> <p>24 Q. And she was able to use it safely?</p>
<p style="text-align: center;">88</p> <p>1 then; correct?</p> <p>2 A. Yes. This one is, is part of the 3 process of the engineering design.</p> <p>4 Q. Okay. And would you agree that 5 Paragraphs 2, 3, and 4 focus on the product 6 itself, right, it's a product focused 7 analysis?</p> <p>8 A. Product, well, I mean, 4 talks about the 9 totality of the evidence which is not just a 10 product. 3 is more product and 2 is more 11 product. So I'd say 2 and 3 are product and 12 4 is more sort of a totality of the evidence 13 which does include testimony.</p> <p>14 Q. I don't remember the number, but it's 15 almost 15 or 20 pressure cookers that you've 16 examined over the years, they generally have 17 the same basic operating concept, do you 18 agree with that?</p> <p>19 A. You mean of all of the pressure cookers?</p> <p>20 Q. Yeah.</p> <p>21 A. Yeah, I'd say about a hundred give or 22 take, but yeah. So in terms of the 23 electronic pressure cookers, their designs 24 are fairly similar across the board. I mean,</p>	<p style="text-align: center;">90</p> <p>1 A. Yeah.</p> <p>2 Q. You'd agree that pressure cookers are 3 used safely every day by tens of thousands of 4 people; right?</p> <p>5 A. I don't know how many people use them 6 every single day, but I'm sure they 7 frequently do get used without injury.</p> <p>8 Q. And that means they're being used 9 safely; right?</p> <p>10 A. Well, I mean, I would -- I don't know if 11 you can make that assumption. I mean, 12 somebody could use it unsafely and get lucky 13 and not get hurt, so I wouldn't say that I 14 guarantee they were being used safely.</p> <p>15 Q. Okay. But you can -- you'd agree that a 16 large number of people use pressure cookers 17 every day in the United States and maybe 18 Canada and they don't get injured; is that 19 fair?</p> <p>20 A. Yeah. I mean, I don't, like I said, I 21 don't know the number, but I'm sure that 22 there are frequent uses where people are not 23 injured, yes.</p> <p>24 Q. Okay. Do you know how many pressure</p>

<p style="text-align: center;">91</p> <p>1 cookers are out there in the world?</p> <p>2 A. That's a good question. No, I've never</p> <p>3 really tried to put that number together. I</p> <p>4 mean, I guess I don't have a specific number.</p> <p>5 Q. Do you know how many Instant Pots are</p> <p>6 out there?</p> <p>7 A. You know, I'm not sure. I don't -- I</p> <p>8 don't recall seeing production numbers for</p> <p>9 Instant Pot, although I may have seen it. I</p> <p>10 just don't recall seeing it. I assume it's</p> <p>11 in the, in the many, many thousands. I don't</p> <p>12 know if it's in the millions or not.</p> <p>13 Q. In the course of your evaluation of</p> <p>14 pressure cookers, have you ever looked up</p> <p>15 reviews of pressure cookers online?</p> <p>16 A. I have -- I have done that for other</p> <p>17 cases. I don't know that I did that for this</p> <p>18 case. I don't think I did.</p> <p>19 Q. All right. Do you have any reason to</p> <p>20 dispute that there are many positive reviews</p> <p>21 out there for pressure cookers?</p> <p>22 A. No.</p> <p>23 Q. Would you agree that many find it a</p> <p>24 useful and functional device?</p>	<p style="text-align: center;">93</p> <p>1 where that was. It might have been like in</p> <p>2 the man's guide of cooking or some weird -- I</p> <p>3 remember it being funny, you know, like they</p> <p>4 had these really stupid sort of instructions</p> <p>5 like boiling eggs and stuff. I don't</p> <p>6 remember all the details. I don't think it</p> <p>7 was a serious cookbook to answer your</p> <p>8 question.</p> <p>9 Q. I'm starting to sense that as you're</p> <p>10 going through.</p> <p>11 A. Yeah.</p> <p>12 Q. Okay. Let's see if we can get some, if</p> <p>13 you can help me understand the product here.</p> <p>14 So I am going to hopefully share a couple of</p> <p>15 photos.</p> <p style="text-align: center;">Do you see that, sir?</p> <p>17 A. I do.</p> <p>18 Q. And for the record it is, I'm just going</p> <p>19 to read the last three numbers. It's a photo</p> <p>20 from your file, the last three numbers 332.</p> <p>21 A. Okay.</p> <p>22 Q. Do you see the document?</p> <p>23 A. I do see that up on the corner, yes.</p> <p>24 Q. Does that help?</p>
<p style="text-align: center;">92</p> <p>1 A. I'm sure there are people who would find</p> <p>2 it useful and functional.</p> <p>3 Q. At one point in time your wife found it</p> <p>4 useful?</p> <p>5 A. I don't know how useful she found it,</p> <p>6 but I know she used it.</p> <p>7 Q. Okay. You'd agree there is a whole</p> <p>8 cottage industry of pressure cooker cookbooks</p> <p>9 out there touting the advantages of pressure</p> <p>10 cooking?</p> <p>11 A. Um, you know I've seen those like, you</p> <p>12 know, at the book store and stuff. I guess I</p> <p>13 don't really know much about how big that</p> <p>14 industry is.</p> <p>15 Q. All right. But you agree it exists;</p> <p>16 right?</p> <p>17 A. Well, I know it must exist because I've</p> <p>18 seen those books, yeah.</p> <p>19 Q. All right. You haven't seen cookbooks</p> <p>20 about how to make toast, have you?</p> <p>21 A. You know, that's funny. I might have</p> <p>22 actually.</p> <p>23 Q. Really?</p> <p>24 A. Yeah. You know, I'm trying to think</p>	<p style="text-align: center;">94</p> <p>1 A. Yeah, 332. Okay.</p> <p>2 Q. Okay. And this is a photo that Mr. King</p> <p>3 took?</p> <p>4 A. I believe he was the one who took that,</p> <p>5 yeah.</p> <p>6 Q. All right. This is a float valve;</p> <p>7 correct?</p> <p>8 A. It looks like the underside of the float</p> <p>9 valve, yes.</p> <p>10 Q. Okay. And this is in the bottom of</p> <p>11 the -- this is in the lid, right, and the lid</p> <p>12 is turned upside down; correct?</p> <p>13 A. This is the underside of the lid, right,</p> <p>14 the part of the lid that would face inside</p> <p>15 the cooker.</p> <p>16 Q. Okay. And I'm going to show you the</p> <p>17 float valve moves up and down; right?</p> <p>18 A. That's true.</p> <p>19 Q. Okay. This photo shows it in the open</p> <p>20 position; right?</p> <p>21 A. That is the down position or the open</p> <p>22 position, correct.</p> <p>23 Q. Okay. Unpressurized?</p> <p>24 A. This would be an unpressurized position</p>

<p style="text-align: center;">95</p> <p>1 or the pressure is less than 1/2 to 1 psi. 2 Q. All right. This is the closed position, 3 the pressurized position in Photo 331; right? 4 A. Yes, I would agree with that. 5 Q. Okay. And I am going to reorient us. 6 I'm going to flip your photo over. Do you see that? 7 A. Yes. 8 Q. Okay. And in the lower right I called 9 it "Float Valve A." Do you see that? 10 A. I do see those words, yes. 11 Q. Okay. This is the same picture just 12 turned around and I put an arrow that says 13 "Up," right? 14 A. That does appear to be the case, yes. 15 Q. But you see the words "Up" with an 16 arrow, right? 17 A. Oh, yes. No, I do see the word, yes. 18 Q. Okay. So all I did was this is on the 19 underneath side of the lid, this would -- if 20 you could climb into the pot with a camera 21 and take a picture, this is what you'd see if 22 the pot wasn't pressurized; right? 23 A. Yes, or if the pressure was below 1/2 to</p>	<p style="text-align: center;">97</p> <p>1 valve falls? 2 A. If the pressure is reduced to that 1/2 3 psi give or take I'd say, yes, that's true. 4 Q. Okay. Well, have you ever had an 5 occasion where the float valve dropped at a 6 higher pressure? 7 A. Dropped from the closed to open, no. 8 Q. Okay. So would it be safe to open -- if 9 you're looking at the pressure relief valve 10 from the outside, would it be safe to open up 11 when the pressure relief valve falls? 12 A. Assuming that it's not clogged, then I 13 would say yes. 14 Q. All right. Would it be safe to open the 15 pot at 3/4 pounds per square inch pressure? 16 A. Yeah, I'd say 3/4 psi is probably still 17 safe. I'd say so. 18 Q. How about 1 psi, is that still safe? 19 A. I'd say about you're starting to get 20 into that depends range, but I would say most 21 likely it would be safe. 22 Q. All right. Just context, ambient 23 pressure at sea level which I think we're 24 both, you and I are roughly at is what, 14,</p>
<p style="text-align: center;">96</p> <p>1 1 psi. 2 Q. All right. That answered my question. 3 So the float valve rises at 1/2 pounds per 4 pound square inch? 5 A. Yeah. It varies on the cooker, but in 6 my experience they're usually between 1/2 and 7 1 psi. 8 Q. All right. And it stays elevated during 9 the cook cycle; right? 10 A. Yes. 11 Q. And drops at 1/2, roughly 1/2 psi at the 12 end of the cook cycle -- 13 A. Yes. 14 Q. -- when the pressure is reduced; right? 15 A. Yes, the ballpark, I think that's fair. 16 Q. All right. And within seconds of the 17 float valve falling the pressure will 18 essentially equalize between the room 19 pressure and inside the pot? 20 A. Yeah, it may take a few seconds. I 21 think that's fair. I think seconds is the 22 correct assessment. 23 Q. Okay. You'd agree that it would be safe 24 to open the pot when the pressure relief</p>	<p style="text-align: center;">98</p> <p>1 15 pounds per square inch? 2 A. Yeah. I think it's like 14.3, but 3 remember the 1 psi we're talking about here 4 is relative to ambient, so that's 1 psi over 5 ambiance. 6 Q. That was my next question, sir. 7 A. Yeah. 8 Q. So we're talking about when we say 1 9 psi, it's 1 psi above what the normal 10 pressure is around us? 11 A. Correct, yeah. If it were 1 psi 12 absolute this thing might buckle. 13 Q. Okay. That would be -- yeah. And this 14 pressure cooker operates at a relative psi 15 of what, 12 pounds per square inch? 16 A. I think it depends, but that's pretty 17 typical. 18 Q. All right. And the vessel itself is 19 able to withstand that pressure; right? 20 A. Oh, I'm sure the vessel could withstand 21 more than that. 22 Q. All right. Again, just putting this in 23 context, car tires are what, 32, 36 psi above 24 ambient?</p>

<p style="text-align: center;">99</p> <p>1 A. Yeah, it depends. I mean, you know, for 2 some applications people run their tires much 3 lower, like if you're doing off-roading it 4 might be 5 to 15 or 20. Some people run it 5 much higher. I think you can run them 50, 60 6 even, but I think most passenger vehicles are 7 intended to be run in the 30's.</p> <p>8 Q. Okay. Would you agree with this 9 statement: If a user closes the lid fully 10 and does nothing more than wait for the 11 pressure relief valve to drop before opening 12 the lid, there is no safety issue?</p> <p>13 A. If we assume that the release valve is 14 not clogged in that position, then I would 15 say that's true.</p> <p>16 Q. Would you agree that, I think you've 17 told us before you've criticized pressure 18 cookers before for a recessed float valve; 19 right?</p> <p>20 A. Yeah. So there are, there are some 21 pressure cooker designs where the float valve 22 is in a deep well and there is no way to tell 23 by looking at it. There is no easy way to 24 tell whether it's up or down.</p>	<p style="text-align: center;">101</p> <p>1 Q. And it's missing a cover on the left, 2 this kind of silver thing sticking up on the 3 left?</p> <p>4 A. Yeah.</p> <p>5 Q. There should be a cover over that; 6 right?</p> <p>7 A. Well, I would call it, it's part of the 8 pressure control valve. It's basically a 9 weight with a valve seat on it.</p> <p>10 Q. Okay. It's missing in the photo is my 11 point?</p> <p>12 A. That's true.</p> <p>13 Q. Okay. And over here, this silver 14 button, that's the top of the relief valve; 15 correct?</p> <p>16 A. That's the top of the float valve.</p> <p>17 Q. Float valve. Sorry, my mistake. It's 18 the top of the float valve. And this is in 19 the up pressurized position in this 20 photograph; correct?</p> <p>21 A. No, I think this one -- yeah, I think 22 that is in the up position, yes. Yes.</p> <p>23 Q. All right. Well, I can show you the 24 next photo which is 282. That's the down</p>
<p style="text-align: center;">100</p> <p>1 Q. All right. That's not this pressure 2 cooker; right?</p> <p>3 A. That's true.</p> <p>4 Q. Matter of fact, you've in other cases 5 touted the design of the Instant Brand's 6 float valve as the way it should be designed; 7 correct?</p> <p>8 A. It's certainly one of the better designs 9 meaning that, and I think it's not just 10 Instant, but I think the new Maxi-Matic is 11 even better because it uses a red pin, but 12 they're both pretty good contrasts. I would 13 say it's among the better designs in terms of 14 visibility.</p> <p>15 Q. Certainly not defective; correct?</p> <p>16 A. That's still true, yeah.</p> <p>17 Q. And you would agree -- well, let me -- 18 let's display a couple of photos so we know 19 what we're talking about.</p> <p>20 Okay. This is Photo 383, one of 21 your photos or one of Mr. King's photos I 22 should say. This is the top of the Instant 23 Pot pressure cooker; right?</p> <p>24 A. Yes.</p>	<p style="text-align: center;">102</p> <p>1 position.</p> <p>2 A. Yes, I do see that.</p> <p>3 Q. Actually, let me make sure I got my 4 numbers right. 283 is up and 282 is down. 5 283 up, 283 down; right?</p> <p>6 A. 28 -- 382 down.</p> <p>7 Q. Yeah, 382, sorry. My bad.</p> <p>8 A. Yeah, yeah.</p> <p>9 Q. Okay. In the past you've said that the 10 Instant Pot has a high contrast silver button 11 on a black contrasting background, right, 12 that that's an advantage?</p> <p>13 A. Yes, I agree.</p> <p>14 Q. Okay. And would you agree that 15 Ms. Durham testified she knew she should wait 16 for the float, wait for the float valve, I 17 think she called it silver button, to drop 18 before opening?</p> <p>19 A. I do recall something to that effect in 20 her deposition.</p> <p>21 Q. Matter of fact, she testified she could 22 see it, that silver button on the black lid.</p> <p>23 Do you recall that testimony?</p> <p>24 A. Yeah. I think she was asked about the</p>

<p style="text-align: center;">103</p> <p>1 button a number of times and I think that she 2 did say that she believed that it was -- that 3 she could see it. Yeah, I do believe she 4 said she could see it.</p> <p>5 Q. All right. Did she ever say she 6 couldn't see it?</p> <p>7 A. I don't think so.</p> <p>8 Q. Did she ever say she didn't understand 9 what the purpose of it was?</p> <p>10 A. I don't think so. I don't recall her 11 saying that.</p> <p>12 Q. Okay. You'd agree that this design and 13 configuration of the silver float valve is a 14 positive design feature for the Instant 15 Brand's product?</p> <p>16 A. The high contrast and visibility is a 17 positive feature, correct.</p> <p>18 Q. Okay. And you agree that this design 19 and configuration increases the safety of the 20 product over other designs?</p> <p>21 A. It is better than other designs. There 22 are designs that are worse.</p> <p>23 Q. Turning back to the photograph ending 24 383, again when the float valve is up it</p>	<p style="text-align: center;">105</p> <p>1 the lock is engaged; right? 2 A. If the lid is in the proper position and 3 the slider mechanism is positioned to allow 4 the float valve to enter an opening in the 5 slider then, then it would become locked, 6 yes.</p> <p>7 Q. Okay. In normal operating conditions 8 when the float valve is up the unit is 9 locked; correct?</p> <p>10 A. Yes, I think that's fair.</p> <p>11 Q. And when the float valve drops it 12 unlocks the unit for opening, correct, under 13 normal operating conditions?</p> <p>14 A. Yes. If the float valve is in the down 15 position it will not provide a lock.</p> <p>16 Q. And that's a design feature; correct?</p> <p>17 A. Yes.</p> <p>18 Q. I mean, the lock is a positive design 19 feature. It makes the unit -- it makes the 20 product safer; correct?</p> <p>21 A. Yes, correct.</p> <p>22 Q. Okay. The lid of this pot -- actually, 23 I'm going to show you this. Sorry, my share 24 thing is in the way. This is a photograph</p>
<p style="text-align: center;">104</p> <p>1 doesn't extend above the black plastic 2 surrounding it; correct?</p> <p>3 A. No, I believe in the subject it's fairly 4 flush.</p> <p>5 Q. All right. And would you agree that 6 that's a positive design feature as well?</p> <p>7 A. Um, I would say it's all part of the 8 same piece meaning it does allow for easier 9 visibility with the high contrast and I think 10 its position is a plus.</p> <p>11 Q. And would you also agree that the fact 12 that it doesn't extend too high eliminates 13 the chance that it might be accidentally 14 depressed and unlocked?</p> <p>15 A. It does mitigate that risk, yes.</p> <p>16 Q. And the, that float valve we're talking 17 about, that silver button that goes up and 18 down, that intersects with a locking 19 mechanism; correct?</p> <p>20 A. Yes.</p> <p>21 Q. Or interlocked maybe would be a better 22 description?</p> <p>23 A. That's fair.</p> <p>24 Q. Okay. And when the float valve is up,</p>	<p style="text-align: center;">106</p> <p>1 you provided us of one of the exemplar units. 2 I think it's --</p> <p>3 A. Okay.</p> <p>4 Q. I think it's -- I don't know if it ends 5 with .1-.2 pressure cooker lid with 6 base.jpeg.</p> <p>7 A. Okay. I see that, yeah.</p> <p>8 MR. CALLAHAN: And I think we're 9 up to Exhibit No. 9.</p> <p>10 (Exhibit <u>Rondinone-9</u> was marked 11 for identification.)</p> <p>12 BY MR. CALLAHAN:</p> <p>13 Q. This is one of the exemplars that you 14 examined or were in Berkeley Engineering's 15 possession I should say?</p> <p>16 A. I think -- I think that's fair.</p> <p>17 Q. Okay. And just an overall visual of it, 18 we have the base unit and the lid on top. Do 19 you see the lid?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. There is a handle on it?</p> <p>22 A. Yes.</p> <p>23 Q. How much force does it take to close the 24 lid, do you know?</p>

<p style="text-align: center;">107</p> <p>1 A. You know, I don't know that I've 2 measured it with these, but typically when 3 there is no pressure and the lock is not 4 engaged, it's probably just a few pounds of 5 force, fairly low.</p> <p>6 Q. Applied where?</p> <p>7 A. Well, it depends on where you -- I mean, 8 if you grab it in the middle it would be 9 applied as a twist in the middle or you could 10 apply it to the ends of the handle as well.</p> <p>11 Q. Well, that's my question. You say apply 12 a few pounds of force. Where are you 13 applying the force to close the lid?</p> <p>14 A. Oh, so --</p> <p>15 Q. Or if you'd like, how much torque is 16 required to overcome the friction?</p> <p>17 A. Yeah. So I would say that it's not 18 much. It's in the handful of foot-pounds at 19 most in terms of torque. It depends. It 20 depends on the weight of the cooker interface 21 and like you said on the friction, but it's a 22 fairly small torque. I don't have a number 23 for this, for this particular one. I don't 24 think we measured it.</p>	<p style="text-align: center;">109</p> <p>1 Q. Okay. The photo that's in front of you, 2 the exemplar photo, can you tell me if this 3 lid is fully closed?</p> <p>4 A. That lid looks like it's either fully 5 closed or close to closed because the ears on 6 the lid are fairly, they're fairly well 7 aligned with the handles on the base. I 8 can't tell from this orientation if it's 9 centered or not.</p> <p>10 Q. All right. So one way to tell if the 11 lid is closed is if the fins on the lid line 12 up with the handles?</p> <p>13 A. I think that's fair.</p> <p>14 Q. All right. Is another way this 15 particular mark here on the front of the lid?</p> <p>16 A. Yes. I believe that mark will line up 17 with, although I don't see the mark in the 18 photograph, but I believe that there is an 19 alignment mark as well.</p> <p>20 Q. Is the alignment mark in the center of 21 the control panel?</p> <p>22 A. I can't see it in the photo, but that 23 wouldn't surprise me if that were the case.</p> <p>24 Q. Okay.</p>
<p style="text-align: center;">108</p> <p>1 Q. Okay. It's possible to measure though; 2 right?</p> <p>3 A. Oh, it is possible, yes.</p> <p>4 Q. You'd agree however much force it takes 5 to close the lid, it's fairly easy to close?</p> <p>6 A. Yes, that's fair.</p> <p>7 Q. And the only thing resisting when 8 closing it is the friction between the lid 9 and the base unit; correct?</p> <p>10 A. Yes.</p> <p>11 Q. That's so that the user can close this 12 with two fingers; right?</p> <p>13 A. Yeah, I bet they could.</p> <p>14 Q. And when closing the unit, the friction 15 between the feet and the base and the counter 16 it's sitting on is enough to overcome the 17 twisting action to close the lid; right?</p> <p>18 A. Yeah, I think that's fair.</p> <p>19 Q. You don't need -- you don't have to hold 20 the base with one hand and close the lid with 21 the other?</p> <p>22 A. No, I don't think that's required.</p> <p>23 Q. It's not a pickle jar; right?</p> <p>24 A. That's true.</p>	<p style="text-align: center;">110</p> <p>1 A. I believe that -- I just don't see it in 2 the photo.</p> <p>3 Q. Is the lid difficult to close fully?</p> <p>4 A. I would say no.</p> <p>5 Q. Do you think it's something that a 6 manufacturer could reasonably expect a 7 consumer to accomplish?</p> <p>8 A. I mean, I think that, I think that a 9 reasonable consumer certainly could close it.</p> <p>10 There is no guarantee that they will close it 11 all the way, but I think that they certainly 12 could.</p> <p>13 Q. Is that a reasonable expectation that 14 the consumer would close the lid properly?</p> <p>15 A. Well, I think the expectation is that 16 the consumer may believe that they closed the 17 lid all the way, but in this position here 18 which appears to be mostly closed, if not 19 fully closed, it's mostly closed, may still 20 be an expectation that the user may do that.</p> <p>21 I would not rule -- I would say that a 22 manufacturer, designer, distributor would 23 have to expect that users may not fully close 24 it, but they may nearly fully close it and</p>

<p style="text-align: center;">111</p> <p>1 that that would be an anticipated use of the 2 product.</p> <p>3 Q. How many indicators are there for the 4 user to tell if it's fully closed?</p> <p>5 A. I would say visually it would be the 6 alignment mark and the ears.</p> <p>7 Q. The what?</p> <p>8 A. The alignment mark and the ears.</p> <p>9 Q. Anything else?</p> <p>10 A. I mean, I guess if they shone a light 11 into the little float valve recess they might 12 be able to see the slider. I don't know that 13 anybody would do that though. I mean, I 14 would, but I don't know that a normal user 15 would.</p> <p>16 Q. There is a stop, is there not?</p> <p>17 A. There is a stop. You could hold it 18 against the stop, but if you were to close it 19 and bounce off the stop then you may end up 20 back into a position like this.</p> <p>21 Q. How often does that occur?</p> <p>22 A. I have not done statistics on that.</p> <p>23 Q. So you can't tell me if it occurred, if 24 it's ever occurred, can you?</p>	<p style="text-align: center;">113</p> <p>1 A. No, I don't think I have.</p> <p>2 Q. So do you think the full stop is a 3 safety feature or a safety detriment?</p> <p>4 A. No, I think that the stop is, would be a 5 good part of the design because it does 6 provide tactile feedback.</p> <p>7 Q. You can turn it until it stops. Let it 8 go and it's closed; right? That's a 9 positive?</p> <p>10 A. Yeah. If you turn it until you're 11 stopped -- until it stops and you're still 12 holding it and you hold it against the stop, 13 then yes, it would be fully closed.</p> <p>14 Q. How would you close it? Isn't that what 15 you would do?</p> <p>16 A. I suppose. I mean, I don't use these, 17 so I'm not really -- I don't know what I -- I 18 don't know what I'd actually do in cooking, 19 but I know as an engineer that's how I would 20 do it.</p> <p>21 Q. Would you agree the marking on the front 22 of the base and the lid is a positive design 23 feature helping the user know when it's fully 24 closed?</p>
<p style="text-align: center;">112</p> <p>1 A. Well, I mean statistically you know it 2 must have occurred, but the question is how 3 often. I couldn't tell you.</p> <p>4 Q. Why can you say it must have occurred?</p> <p>5 A. Because the simple physics dictates that 6 there is going -- that there can be an 7 elastic response if you -- if you close 8 something against the bump with energy there 9 will be an elastic response. The question is 10 how are you holding it when you get the 11 elastic response, how much force is in the 12 elastic response and, you know, does it move 13 back a millimeter or multiple millimeters or 14 close to zero. I haven't done the 15 statistics.</p> <p>16 Q. So you can't offer a scientifically 17 valid opinion about how far it would bounce 18 or if it would bounce back?</p> <p>19 A. No, that's not true. The physics 20 dictates that it could easily bounce back. 21 The question is how far and how often, I 22 can't tell you.</p> <p>23 Q. And you can't -- you've never tested 24 that to tell us that?</p>	<p style="text-align: center;">114</p> <p>1 A. Yeah, I would say that's a positive 2 feature.</p> <p>3 Q. And the fins on the handles lining up, 4 you would also say that's a positive feature 5 to help the user understand when it's fully 6 closed; right?</p> <p>7 A. Yeah, I'd agree with that.</p> <p>8 Q. And even if, even if they spun it closed 9 and it bounced back as you suggested could 10 occur, I mean, the fins would not be lined up 11 anymore; right?</p> <p>12 A. They may not be perfectly centered, but 13 they may still be lined up. Like it looks to 14 me like the fins are lined up but not 15 perfectly centered in the photograph.</p> <p>16 Q. Did Durham testify that she knew how to 17 close the lid?</p> <p>18 A. You know, I don't recall her testimony 19 to that effect, but I don't think she ever 20 testified that she didn't know how. I don't 21 recall her specific testimony.</p> <p>22 Q. Do you remember her testimony? I asked 23 her, do you remember on the incident that you 24 turned the lid all the way so it stopped, and</p>

<p style="text-align: center;">115</p> <p>1 her testimony was yes? Do you remember that? 2 A. I don't, but that sounds reasonable that 3 she would have said that. I mean, that 4 sounds about like the recollection, what it 5 ought to be.</p> <p>6 Q. And she also confirmed that the flaps 7 and the handles met after she closed it on 8 the day of the incident. Do you remember 9 that?</p> <p>10 A. I don't remember that, but if she said 11 it then I would agree that that's what she 12 said.</p> <p>13 Q. Do you have any reason to believe she 14 didn't understand how to determine if the lid 15 was closed properly?</p> <p>16 A. No, I guess I don't have an opinion on 17 that. So, yeah, I guess I don't have an 18 opinion on that.</p> <p>19 Q. And do you remember any testimony about 20 that?</p> <p>21 A. No, but if what you read me was from her 22 deposition, then I'd say that that's what she 23 said.</p> <p>24 Q. The examination by Berkeley Engineering</p>	<p style="text-align: center;">117</p> <p>1 testing could support or not support what she 2 said in her deposition. I think if that's 3 what she said then that's what she said, 4 right. I wouldn't argue with what she said.</p> <p>5 Q. But your testing doesn't contradict what 6 she said, does it?</p> <p>7 A. Well, the testing can't contradict or 8 support what she said, right. I mean, nobody 9 was there videotaping what she did. All the 10 testing says is that it can be closed and we 11 were able to close it and I think so was your 12 expert. I think that's all the testing says.</p> <p>13 It can't say what she said about it.</p> <p>14 Q. But you could have done testing that 15 confirmed that it couldn't be closed; right?</p> <p>16 That might have negated the test?</p> <p>17 A. Oh, I see. Okay. So you're saying that 18 the testing demonstrates that what she said 19 could be true? Is that what you're saying?</p> <p>20 Q. Sure.</p> <p>21 A. Okay. Yeah, I think the testing 22 supports that what she said could be true.</p> <p>23 Q. All right. And nothing in your testing 24 supports the opposite conclusion that what</p>
<p style="text-align: center;">116</p> <p>1 didn't reveal any difficulty in closing the 2 lid, did it?</p> <p>3 A. It did not reveal any difficulty in 4 closing.</p> <p>5 Q. And during examination the unit could be 6 fully closed to the stop with a simple twist 7 of the finger; right?</p> <p>8 A. I believe that it could be easily 9 closed.</p> <p>10 Q. And it was, it was completely closed by 11 Mr. King during his inspection; right?</p> <p>12 A. I think that is true.</p> <p>13 Q. And when it is fully closed it operates 14 appropriately; right?</p> <p>15 A. I believe in the, yeah, in the three or 16 so tests that were done with it I believe 17 that it did operate as intended when it was 18 tested.</p> <p>19 Q. So nothing in your testing of the unit 20 contradicts Ms. Durham's recollection that 21 she understood how to close it and that she 22 did in fact close and check it on the date of 23 the incident?</p> <p>24 A. Well, I don't know how any of our</p>	<p style="text-align: center;">118</p> <p>1 she said couldn't be true; right?</p> <p>2 A. None of the testing proved that what she 3 said couldn't be true, but it doesn't prove 4 that what she said was true. It just said 5 that it could be true.</p> <p>6 Q. I think you mentioned this before. The 7 lid turns counterclockwise to close; right?</p> <p>8 A. No, I believe this lid turns clockwise 9 to close.</p> <p>10 Q. Oh, yeah, you're right. Sorry, I'm 11 backwards.</p> <p>12 A. I think she was backwards in her 13 testimony as well which frankly doesn't 14 surprise me.</p> <p>15 Q. But the witness -- let me ask it this 16 way. The way this lid closed is what you 17 would expect, what the user would expect, and 18 is a positive design feature. Is that -- are 19 those all fair statements?</p> <p>20 A. That's fair.</p> <p>21 Q. Okay. I probably should be doing the 22 righty-tighty lefty-loosey thing to try to 23 figure that out; right?</p> <p>24 A. Exactly.</p>

<p style="text-align: center;">119</p> <p>1 Q. In other pressure cooker matters not 2 involving Instant Pot you've criticized the 3 design of the manufacturer, design of the 4 product because in your opinion the user 5 could partially close the lid without 6 engaging the locking mechanism; correct? 7 A. Yes. 8 Q. And that could create a risk that the 9 pot could be pressurized but not locked; 10 right? 11 A. Yes. 12 Q. And that's not your opinion -- that 13 didn't happen in this case in your opinion? 14 A. That's correct. 15 Q. We just spoke about some positive 16 indicators for the user to determine when the 17 lid was fully closed, but you'd agree that 18 Instant Pot has two other positive safety 19 features that protect the user if they do in 20 fact fail to close the lid fully? 21 A. Is there a question there? I don't know 22 what the question is. 23 Q. All right. If this lid is in place and 24 it's not fully closed -- well, let me put it</p>	<p style="text-align: center;">121</p> <p>1 acknowledge it or basically fully closed, 2 much closer than the full inch I think that 3 this one showed. 4 So I don't think it's unique to 5 this one pressure cooker, but I know that 6 it's, there are other instant pressure 7 cookers that definitely read fully closed 8 until they're much more fully closed. Does 9 that make sense? I don't know if I'm being 10 clear on that. 11 Q. All right. Let's explore the switch. 12 If the base doesn't sense that the lid is in 13 the correct position, whatever that means, it 14 will not heat; right? 15 A. That's true. 16 Q. Okay. 17 A. When the base, when the base detects the 18 lid in a position that it believes is not 19 properly closed, then it won't heat. 20 Q. In the past you've criticized 21 manufacturers for not having a magnetic 22 switch sensor; correct? 23 A. That's true. 24 Q. In those other cases you offered an</p>
<p style="text-align: center;">120</p> <p>1 this way. Let me start over. There is, 2 there is a magnetic switch on this product; 3 correct? 4 A. Yes. Yes, it does use a magnetic switch 5 assembly to determine the position of the 6 lid. 7 Q. Okay. And if the lid is not in the 8 proper position, fully closed, the unit will 9 not heat; correct? 10 A. No, that's not quite true. So on this 11 particular model the lid can be closed within 12 about, I think it's about an inch of full 13 closure and the magnetic sensor will read it 14 as fully closed even though it's not fully 15 closed. 16 Q. Is that unique to the Durham product or 17 is that a design feature of all Duo 60 18 Pluses? 19 A. I don't think it's unique to the Durham 20 product, because I have seen other Instant 21 Pots that will acknowledge closure with the 22 magnet before it's fully closed, but I 23 believe I've also seen Instant products which 24 require that it be fully closed to</p>	<p style="text-align: center;">122</p> <p>1 Instant Pot as an example of a product using 2 the magnetic switch as a positive design 3 feature? 4 A. Yeah, the Instant Pot, I think numerous 5 Tristars and Maxi-Matics, and there are 6 others, too, that also use it, but yeah, the 7 Instant Pot is among the designs that does 8 use a magnetic switch. 9 Q. And you'd agree the magnetic switch is a 10 positive safety feature? 11 A. Yes, I agree. 12 Q. And the way the electronics are in the 13 Instant Pot product, if the user wants to 14 remove the lid and use it for a 15 non-pressurized cooking procedure, it still 16 heats; right? 17 A. Yes, and that's common with pressure 18 cookers with magnetic switches. They're -- 19 they are wise enough to cook with no lid. 20 Q. All right. So it only senses if the lid 21 is on, but not in the right position? 22 A. That's the intention of the sensor, yes. 23 Q. All right. This Durham pot also if the 24 slider hasn't fully passed over the top, the</p>

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<p>1 tab, sorry, the float valve will not rise; 2 right?</p> <p>3 A. If the slider is slid regularly outwards 4 such that the hole in the slider or the slot 5 in this case I think doesn't line up 6 properly, then yeah, it will prevent the 7 float valve from rising. The body of the 8 slider will strike the top of the float valve 9 and will prevent it from rising properly.</p> <p>10 Q. And that's a positive design feature; 11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And the intent of that design feature it 14 is preventing pressurization without the lock 15 fully engaged; right?</p> <p>16 A. Yes.</p> <p>17 Q. You state that in your report; right?</p> <p>18 A. Yes.</p> <p>19 Q. And your testing and examination of the 20 product revealed that the magnetic switch 21 functioned; correct?</p> <p>22 A. The magnetic switch did function, but it 23 showed -- it presented to the base unit that 24 the lid was fully closed about an inch before</p>	<p>1 (Resumed; 3:31 p.m.)</p> <p>2 THE VIDEOGRAPHER: We're back on 3 the record, 3:31.</p> <p>4 BY MR. CALLAHAN:</p> <p>5 Q. I'm going to turn our attention to 6 pressure control of the unit. First of all, 7 the Instant Pot product has electronic 8 pressure limit; correct?</p> <p>9 A. Yeah, I believe it does.</p> <p>10 Q. So when it reaches operating pressure, 11 the heating stops and the pressure is 12 stabilized or decreases until it reaches a 13 threshold and heats up again; right?</p> <p>14 A. Yeah. There is a little bit of a 15 wiggle, but it's definitely controlled.</p> <p>16 Q. Okay. That's a positive feature?</p> <p>17 A. Yeah. Yeah, in fact I think that's 18 probably the only way you can do it with an 19 electronic.</p> <p>20 Q. And that is a -- your testing 21 demonstrated that pressure, electronic 22 pressure control still functions today; 23 correct?</p> <p>24 A. I believe that's true, yes. Yeah.</p>
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<p>1 it was fully closed.</p> <p>2 Q. And you've also confirmed that the 3 interlock, if the pins extended the float 4 valve will not rise; right?</p> <p>5 A. If the -- right. If the slider has 6 moved radially outward to interfere with the 7 float valve, it will prevent the rising of 8 the float valve.</p> <p>9 Q. Okay. And if the float valve can't rise 10 the unit cannot pressurize; right?</p> <p>11 A. Barring a clog. Yeah, barring a clog 12 that is true.</p> <p>13 Q. All right.</p> <p>14 MR. KRESS: Dennis, I don't want 15 to interrupt your train of thought. We've 16 been going about an hour and a half. Five 17 minutes?</p> <p>18 MR. CALLAHAN: Sure.</p> <p>19 MR. KRESS: All righty. Off the 20 record, please.</p> <p>21 THE VIDEOGRAPHER: 3:20.</p> <p>22 THE WITNESS: Five minutes.</p> <p>23 (Recess; 3:20 p.m.)</p> <p>24 - - -</p>	<p>1 Q. Okay. We talked about that weighted 2 relief valve cap earlier. That also allows 3 excess pressure to bleed off, does it not?</p> <p>4 A. Yes, it does.</p> <p>5 Q. That also allows the user to quickly and 6 safely release the pressure at the end of a 7 cook cycle, cook cycle if they choose to; 8 correct?</p> <p>9 A. Yes. Yes, it does.</p> <p>10 Q. Again, both positive safety features?</p> <p>11 A. Yes. I mean, there are better ways to 12 implement the weight valve. So, for example, 13 this weight valve requires the user to place 14 their hand at the same exit point which I 15 think is not the best way to do it. There 16 are better designs where they essentially use 17 a remote lever so that you don't have to 18 place your hand on the steam exhaust to 19 change it, but otherwise I'd say it's 20 definitely a useful feature.</p> <p>21 Q. Okay. What happened to the relief valve 22 in this particular product, do you know?</p> <p>23 A. I do not know.</p> <p>24 Q. You can't operate the product without</p>

<p style="text-align: center;">127</p> <p>1 it; correct?</p> <p>2 A. Well, not under pressure.</p> <p>3 Q. Okay. Do you know if she was using the</p> <p>4 pressure relief valve or the pressure relief</p> <p>5 cap at the time of the incident?</p> <p>6 A. Yes, I believe she was.</p> <p>7 Q. And where did it go?</p> <p>8 A. I still don't know that. I don't know</p> <p>9 the answer to that.</p> <p>10 Q. All right. The -- I'm going to share my</p> <p>11 screen. This is the picture of Float Valve</p> <p>12 A. Basically this is the underneath of the</p> <p>13 lid, the float valve in the down position;</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. There is the silver shaft, right, and</p> <p>17 there are two holes in the shaft. Why?</p> <p>18 A. I believe that assists in the venting of</p> <p>19 the unit, meaning the release of pressurized</p> <p>20 vapor.</p> <p>21 Q. How does it do that?</p> <p>22 A. Well, the two holes as well as the</p> <p>23 orifice or annular orifice around the</p> <p>24 cylinder will allow pressurized vapor to</p>	<p style="text-align: center;">129</p> <p>1 to escape, for the pressure to escape when</p> <p>2 there is something -- when you don't want the</p> <p>3 lid to pressurize or the unit to pressurize;</p> <p>4 right?</p> <p>5 A. Um, yes, but --</p> <p>6 Q. When this -- when this comes into play</p> <p>7 is a situation where the lid is not fully</p> <p>8 closed, the float flap is locked down, and</p> <p>9 that hole allows steam to escape to prevent</p> <p>10 pressurization if it's not locked?</p> <p>11 A. If it's not locked and the slider is</p> <p>12 preventing the rising of the float valve,</p> <p>13 yes, steam will escape. You can still get</p> <p>14 pressure buildup, but it will be venting</p> <p>15 while that's happening.</p> <p>16 Q. If the valve is down -- if the valve</p> <p>17 is -- strike that. If the pressure -- I'm</p> <p>18 having a hard time. I need a longer break.</p> <p>19 If the float valve is locked down</p> <p>20 and pressure is escaping through the orifice</p> <p>21 and the bypass hole, how much pressure can</p> <p>22 build within the unit?</p> <p>23 A. Oh, you know, that's a good question.</p> <p>24 On this particular unit I guess I'm not sure,</p>
<p style="text-align: center;">128</p> <p>1 exhaust through the opening in the lid out</p> <p>2 the top of the lid where you had the button,</p> <p>3 the little silver button side of the lid, so</p> <p>4 it gives you a path. It's one of the</p> <p>5 available paths for the exhaust of</p> <p>6 pressurized vapor.</p> <p>7 Q. All right. So these two holes in the</p> <p>8 float valve, a positive design feature?</p> <p>9 A. Um, yeah. I'd say it's better there</p> <p>10 than not there. I'd say that's true.</p> <p>11 Q. All right. And this comes into play</p> <p>12 when the float valve is -- when the lid is</p> <p>13 not fully locked and the float valve is down;</p> <p>14 right?</p> <p>15 A. This applies any time the float valve is</p> <p>16 down. So, for example, if the lid is fully</p> <p>17 locked and the float valve is down, vapor</p> <p>18 will still escape even, you know, while it's</p> <p>19 pressurizing, for example.</p> <p>20 Q. Okay. Until the pressure reaches 1/2 to</p> <p>21 3/4 psi and the float valve locks up?</p> <p>22 A. Yeah, typically 1/2, a little bit more,</p> <p>23 yeah, then the float valve will rise.</p> <p>24 Q. Okay. But you need a path for the steam</p>	<p style="text-align: center;">130</p> <p>1 but I don't believe it can achieve operating</p> <p>2 pressure. So I believe it's less than that,</p> <p>3 but I haven't -- I don't think I've measured</p> <p>4 it on this particular model.</p> <p>5 Q. Is it less than a pound per square inch?</p> <p>6 A. That I don't know. That probably</p> <p>7 depends on the thermal, the thermal mass of</p> <p>8 the contents. I don't -- like I said, I</p> <p>9 would say that it's almost certainly less</p> <p>10 than operating, but I couldn't give a number</p> <p>11 to it since I didn't test it.</p> <p>12 Q. Would you agree that the bypass hole in</p> <p>13 the float valve is a positive design feature?</p> <p>14 A. Yeah, I think it's better that it's</p> <p>15 there. I think that's true.</p> <p>16 Q. Okay. So when the lid -- when the --</p> <p>17 when a user is using the pot and the lid is</p> <p>18 fully closed and the float valve is up</p> <p>19 because it's under pressure, the lid is</p> <p>20 locked; correct?</p> <p>21 A. That is correct.</p> <p>22 Q. And the slider is blocked by the pin</p> <p>23 from allowing the locking tab to go over</p> <p>24 the -- or the locking pin to slide over the</p>

<p style="text-align: center;">131</p> <p>1 tab; right? That's what happens?</p> <p>2 A. Essentially. I mean, basically what</p> <p>3 happens is the, the position of the float</p> <p>4 valve engages the slider so that when someone</p> <p>5 does attempt to open it a resistive force is</p> <p>6 applied by the pin right on the flange of the</p> <p>7 base, and I believe for this design, for this</p> <p>8 pressure cooker that force would be</p> <p>9 sufficient to prevent a user from opening it.</p> <p>10 Q. This design being what, this Instant Pot</p> <p>11 product?</p> <p>12 A. This Instant Pot product, correct.</p> <p>13 Q. Okay. You haven't made any opinions or</p> <p>14 offered any opinions in your report that this</p> <p>15 lock is insufficient?</p> <p>16 A. That's true.</p> <p>17 Q. Okay. And is that because it's your</p> <p>18 belief it is sufficient?</p> <p>19 A. I believe this lock is sufficient to</p> <p>20 prevent a user from opening it when the lock</p> <p>21 is engaged.</p> <p>22 Q. Okay. In addition to the locking pin,</p> <p>23 friction between the lid and the base</p> <p>24 contributes to the resistance; correct?</p>	<p style="text-align: center;">133</p> <p>1 you can open it; right?</p> <p>2 A. Yeah. I mean, if you had a six-foot</p> <p>3 cheater bar you could probably open this one</p> <p>4 at full pressure. I don't know that I'd</p> <p>5 recommend doing that, but I guess it is</p> <p>6 possible. I was referring to somebody using</p> <p>7 it like grabbing the handle, for example,</p> <p>8 just by hand.</p> <p>9 Q. Okay. And the locking mechanism comes</p> <p>10 into play -- well, we talked about earlier in</p> <p>11 your deposition if the float valve is up,</p> <p>12 it's an indicator the unit is under pressure;</p> <p>13 right?</p> <p>14 A. Yeah, that is true.</p> <p>15 Q. And if a user sees and recognizes the</p> <p>16 float valve, they know it's under pressure,</p> <p>17 they know it shouldn't open, they should wait</p> <p>18 for the valve to drop; right?</p> <p>19 A. If they recognize that as the indicator,</p> <p>20 then yes. Like I would recognize that, for</p> <p>21 example, but I can't speak for everybody.</p> <p>22 Q. All right. Well, Ms. Durham recognized</p> <p>23 it too in her testimony; right?</p> <p>24 A. I think she said something to that</p>
<p style="text-align: center;">132</p> <p>1 A. That's true.</p> <p>2 Q. And it can be substantial friction;</p> <p>3 correct?</p> <p>4 A. That's also true.</p> <p>5 Q. I mean, even without a lock at certain</p> <p>6 pressures the friction is so great that a</p> <p>7 user cannot open the pot even without the</p> <p>8 lock?</p> <p>9 A. I agree with that.</p> <p>10 Q. Have you ever measured the friction of a</p> <p>11 pot while under pressure?</p> <p>12 A. I don't think we've measured the</p> <p>13 friction. We have taken pots and opened them</p> <p>14 under pressure and it's our experience that</p> <p>15 above about 4 psi a normal human force is not</p> <p>16 capable of opening the lid even if the</p> <p>17 interlock is not functioning. So usually</p> <p>18 pressures that are above 4, you know, or a</p> <p>19 little higher than that generates sufficient</p> <p>20 friction between the lid and the base that a</p> <p>21 normal person couldn't open it, at least not</p> <p>22 without a tool, not by hand.</p> <p>23 Q. Okay. I mean, it doesn't matter what</p> <p>24 the pressure is, if you use the right tool</p>	<p style="text-align: center;">134</p> <p>1 effect. I don't recall her specific words.</p> <p>2 Q. Okay. So but just the locking mechanism</p> <p>3 we're talking about comes into play if</p> <p>4 someone tries to open it while it's under</p> <p>5 pressure, but they don't realize it's under</p> <p>6 pressure?</p> <p>7 A. It prevents somebody from opening it</p> <p>8 while the float valve is up. Whether it's</p> <p>9 under pressure or not it will prevent someone</p> <p>10 from opening it if the float valve is in the</p> <p>11 up position.</p> <p>12 Q. Okay. Under normal conditions the float</p> <p>13 valve is up while it's under pressure; right?</p> <p>14 A. Under normal operating conditions as</p> <p>15 long as the pressure is above that 1/2 give</p> <p>16 or take, then yes.</p> <p>17 Q. Okay. And if you don't think the</p> <p>18 locking mechanism in this Instant Pot is</p> <p>19 defective, you'd agree it's a positive design</p> <p>20 feature; correct?</p> <p>21 A. I would.</p> <p>22 Q. It sufficiently prevents accidental</p> <p>23 openings?</p> <p>24 A. If the float valve is up it will prevent</p>

<p style="text-align: center;">135</p> <p>1 accidental opening. I agree with that.</p> <p>2 Q. You talked a little bit about, well,</p> <p>3 using a tool to open it, but does the lock</p> <p>4 also have like a tactile warning reminder</p> <p>5 role, too?</p> <p>6 A. I don't know about that. I think a</p> <p>7 properly functioning interlock when it's in</p> <p>8 the locked position will prevent someone from</p> <p>9 opening it, period. Like it's not just, hey,</p> <p>10 be aware, it's you can't do it. Go ahead,</p> <p>11 put your hands on it, give it a shot, you</p> <p>12 can't open it, and I think that's how this</p> <p>13 one behaved.</p> <p>14 Q. But I mean it closes easily; right?</p> <p>15 A. Yes.</p> <p>16 Q. I think you said a pound of force at the</p> <p>17 handle?</p> <p>18 A. Yeah, give or take or a few pounds, but</p> <p>19 yes, I would agree that it's, it would be</p> <p>20 easy to close.</p> <p>21 Q. Okay. And if force has ten times the</p> <p>22 closing force to open, it does indicate</p> <p>23 something to the user; right? You'd agree</p> <p>24 with that?</p>	<p style="text-align: center;">137</p> <p>1 open at least based on my experience.</p> <p>2 Q. How about you?</p> <p>3 A. I would probably interpret that as</p> <p>4 forcing it open if I asked a second person to</p> <p>5 help.</p> <p>6 Q. Okay. And if your wife asked you to</p> <p>7 come hold it while she tries to force, twist</p> <p>8 the lid, you wouldn't do that, would you?</p> <p>9 A. I would not.</p> <p>10 Q. Okay. Do you agree that Ms. Durham</p> <p>11 testified she knew not to force open the lid?</p> <p>12 A. You know, I don't recall her specific</p> <p>13 words, but that wouldn't surprise me if</p> <p>14 that's what she said.</p> <p>15 Q. Did you read Durham's testimony where</p> <p>16 she said she actually tested the unit before</p> <p>17 using it?</p> <p>18 A. You know, I don't -- I don't recall that</p> <p>19 specifically. It does seem somewhat</p> <p>20 familiar. I don't recall that specifically.</p> <p>21 Q. You don't remember her saying she tried</p> <p>22 to force it open and couldn't?</p> <p>23 A. I don't remember exactly what she said.</p> <p>24 I think there was something about she may</p>
<p style="text-align: center;">136</p> <p>1 A. It would indicate something, but it</p> <p>2 would be up to the user to interpret what</p> <p>3 force is good and what force is too much and</p> <p>4 what force is not too much, right, and I</p> <p>5 don't believe Instant Pot provides any</p> <p>6 direction to the user on what that value</p> <p>7 would be and I think that would be</p> <p>8 interpreted differently by different users.</p> <p>9 Q. Okay. You'd agree -- well, there is a</p> <p>10 warning, do not force open; correct?</p> <p>11 A. That's typical of the words that are</p> <p>12 used. I don't -- I haven't memorized this</p> <p>13 manual, but that's typical.</p> <p>14 Q. And you'd agree not forcing it open</p> <p>15 would be something -- if you're getting a</p> <p>16 tool out, you're forcing it open; right?</p> <p>17 A. That I think is fair.</p> <p>18 Q. Okay. How about calling over someone to</p> <p>19 hold the pot still while you grab onto it and</p> <p>20 twist it with both hands, is that forcing it</p> <p>21 open?</p> <p>22 A. I think some users would interpret that</p> <p>23 as forcing it open, but I don't think that</p> <p>24 everybody would interpret that as forcing it</p>	<p style="text-align: center;">138</p> <p>1 have tested it or applied some force to it,</p> <p>2 but I don't -- I don't recall what her words</p> <p>3 were exactly.</p> <p>4 Q. All right. And she certainly didn't</p> <p>5 measure the force she applied?</p> <p>6 A. I'm sure that's true.</p> <p>7 Q. All right. But whatever she did, she</p> <p>8 couldn't get it open and she tried?</p> <p>9 A. Yeah. I mean, I would let her testimony</p> <p>10 speak for itself. I don't remember exactly</p> <p>11 what she said.</p> <p>12 Q. All right. Well, if we assume she tried</p> <p>13 to open it and couldn't, it demonstrates the</p> <p>14 efficacy of the locking mechanism?</p> <p>15 A. Not necessarily, because it could simply</p> <p>16 be the pressure that's high enough to hold it</p> <p>17 locked regardless of the locking mechanism.</p> <p>18 Q. The pressure which creates friction on</p> <p>19 the lid?</p> <p>20 A. Exactly.</p> <p>21 Q. Well, between the lid and the base?</p> <p>22 A. Yes, that's fair.</p> <p>23 Q. Okay. Berkeley Engineering's testing</p> <p>24 demonstrated a lock function?</p>

<p style="text-align: center;">139</p> <p>1 A. Yeah, I think that's fair.</p> <p>2 Q. And the testimony by SEA, defense</p> <p>3 expert, demonstrated the lock function as</p> <p>4 well; correct?</p> <p>5 A. I think -- you know, I don't remember</p> <p>6 every bit of his testing, but I imagine that</p> <p>7 it did. I think it did.</p> <p>8 Q. How much force -- when you say that this</p> <p>9 locking mechanism is good enough, how much</p> <p>10 force do you think it could withstand applied</p> <p>11 at the edge of the rim, edge of the lid?</p> <p>12 A. Oh, you know what, we didn't measure</p> <p>13 that on this unit. Usually when the -- well,</p> <p>14 the UL standard is, requires 100 pounds of</p> <p>15 force applied at the outmost portion of the,</p> <p>16 of the lid handle, but it's my experience</p> <p>17 that, you know, numbers that are lower than</p> <p>18 100 are still more than a single user could</p> <p>19 do. Like I would say that 50 to 75 pounds at</p> <p>20 the edge of a lid is probably all somebody</p> <p>21 could do and they'd have to be trying. I</p> <p>22 mean, that's still using their hands, no</p> <p>23 tools, but you'd have to be trying to do</p> <p>24 that. I don't -- I don't think you'd get</p>	<p style="text-align: center;">141</p> <p>1 I would call -- I would call that forcing it</p> <p>2 open at 75 pounds.</p> <p>3 Q. Okay. Sorry, I'm looking for my</p> <p>4 document. While we're on the force issue</p> <p>5 here, I want to just kind of clarify what</p> <p>6 we're talking about as far as force and where</p> <p>7 it's applied.</p> <p>8 Do you see this exhibit?</p> <p>9 A. I do.</p> <p>10 Q. Okay. It is -- it's one of your</p> <p>11 photographs that I drew some nice pretty red</p> <p>12 lines on. And I don't know what photograph</p> <p>13 it was. I think it is -- whoops, my bad. I</p> <p>14 think it's your photo that ends 287.</p> <p>15 A. Okay. I can do a quick check on that.</p> <p>16 MR. CALLAHAN: And this is going</p> <p>17 to be Exhibit No. 10.</p> <p>18 (Exhibit <u>Rondinone-10</u> was marked</p> <p>19 for identification.)</p> <p>20 THE WITNESS: Yeah, I think it's</p> <p>21 just a cropped version of that photograph.</p> <p>22 You just cropped it.</p> <p>23 BY MR. CALLAHAN:</p> <p>24 Q. Yeah. I might have not intentionally,</p>
<p style="text-align: center;">140</p> <p>1 anywhere near 100. I don't think you could</p> <p>2 do that.</p> <p>3 Q. All right. And you're not sure that</p> <p>4 someone could exert 50 pounds at the edge?</p> <p>5 A. No, I think you could do 50. I think</p> <p>6 I've been able to do 50. So I don't think</p> <p>7 I've been able to do 100 without, you know,</p> <p>8 using a second person or a tool.</p> <p>9 Q. Okay. Do you think a normal person</p> <p>10 could exert 75 pounds of force at the edge of</p> <p>11 the rim -- edge of the lid? Sorry.</p> <p>12 A. I think that maybe, maybe. I mean, I</p> <p>13 think that's at the very high end, but you'd</p> <p>14 know. At that point you'd probably know,</p> <p>15 right, because that's a fairly high force.</p> <p>16 Q. You would know that you're doing</p> <p>17 something wrong you're saying?</p> <p>18 A. Well, you'd know that it's not easy to</p> <p>19 open. That's what I would say.</p> <p>20 Q. You'd pass -- you'd pass by the two</p> <p>21 finger close to don't do that force open at</p> <p>22 75 pounds? You'd agree with that?</p> <p>23 A. Yeah. I think, I think when you hit 75</p> <p>24 or more you would recognize that now you're,</p>	<p style="text-align: center;">142</p> <p>1 but just so it's clear, I drew a red line</p> <p>2 down roughly near the center of the lid. I'm</p> <p>3 not going to -- I'm not going to -- I didn't</p> <p>4 measure it, I eyeballed it, but would you</p> <p>5 agree that's roughly the center at least for</p> <p>6 our purposes?</p> <p>7 A. Yeah, I would say that that's a good</p> <p>8 ballpark.</p> <p>9 Q. Okay. And we're talking about a hundred</p> <p>10 pounds, the UL standard for, well, the test</p> <p>11 from Section 9 of UL 136. That is a hundred</p> <p>12 pounds of force at the edge of the rim.</p> <p>13 That's out here where the longer line is;</p> <p>14 right?</p> <p>15 A. I think it's actually at the edge of the</p> <p>16 farthest point of the lid which would be at</p> <p>17 the end of the handle which is a little</p> <p>18 further than how you've drawn your arrow.</p> <p>19 Q. Okay. It's at the edge of the fin?</p> <p>20 A. Yeah, I think that's fair.</p> <p>21 Q. Okay. Let's talk about the handle. I</p> <p>22 mean, there is nothing out here on the edge</p> <p>23 of the pot to grab onto; right? Most people</p> <p>24 grab it and try to open it with the handle;</p>

<p style="text-align: center;">143</p> <p>1 correct?</p> <p>2 A. I don't know about most people. Because</p> <p>3 the way this is designed, you could very</p> <p>4 easily pinch the ears with the base, the ears</p> <p>5 on the base, and you can use, you can just</p> <p>6 use a squishing, pinching motion with your</p> <p>7 hands to open or close it, so that's what the</p> <p>8 ears allow you to do. So you could easily</p> <p>9 apply force at the edge of the ears. That's</p> <p>10 actually very easy to do with this design.</p> <p>11 Q. So you think the ears are a design flaw</p> <p>12 or could be?</p> <p>13 A. Well, I would, I would say that the ears</p> <p>14 allow you to apply force at the very edge</p> <p>15 which means you can use a smaller force to</p> <p>16 open it. I don't know if I would rate it as</p> <p>17 a flaw or not because I haven't really</p> <p>18 thought about that, but it certainly allows</p> <p>19 the user and you should anticipate a user</p> <p>20 being able to use that to apply force. I</p> <p>21 mean, it's clearly, it's clearly there and</p> <p>22 it's clearly adjacent to the ears on the</p> <p>23 bottom of the base.</p> <p>24 Q. When the lid, when the lid is closed the</p>	<p style="text-align: center;">145</p> <p>1 unit; right?</p> <p>2 A. Yes.</p> <p>3 Q. And if you twist on the handle you're,</p> <p>4 you're losing some mechanical advantage as</p> <p>5 opposed to applying force at the edge of the</p> <p>6 rim -- at the edge of the lid; correct?</p> <p>7 A. That's true.</p> <p>8 Q. Okay. How -- do you know how -- what's</p> <p>9 the diameter of the lid? Do you know? Is it</p> <p>10 about 10 inches?</p> <p>11 A. You know what, I think out to the edge</p> <p>12 of the ears it's like, I want to say it's</p> <p>13 about a foot, but I don't -- I haven't</p> <p>14 memorized that. I'd have to look at it, but</p> <p>15 I think 10 inches to a foot is a -- would be</p> <p>16 a good estimate for the total diameter.</p> <p>17 Q. Okay. And how about to the edge of the</p> <p>18 handle in the inside part where this red line</p> <p>19 is?</p> <p>20 A. The inside of the handle I think is</p> <p>21 about half that, maybe a little more, but,</p> <p>22 you know, ballpark.</p> <p>23 Q. Okay. So, again I mean we could get a,</p> <p>24 we could grab a lid and do an actual</p>
<p style="text-align: center;">144</p> <p>1 ears overlap with the handles; right?</p> <p>2 A. Yeah, but that's, that's exactly why</p> <p>3 it's easy to pinch because then you can grab</p> <p>4 one part of your hand on the ear and the</p> <p>5 other part of your hand on the base and</p> <p>6 squeeze your hand together and be able to</p> <p>7 apply force right to the end. You can do a</p> <p>8 decent size force out there.</p> <p>9 Q. What's decent size force pinching with</p> <p>10 your fingers?</p> <p>11 A. Oh, I don't know, you can probably get</p> <p>12 maybe 10 pounds with each hand and you could</p> <p>13 do both hands simultaneously. Maybe you</p> <p>14 could do a little bit more, but not much, not</p> <p>15 much more. I don't think you could get 50</p> <p>16 pounds.</p> <p>17 Q. Okay.</p> <p>18 A. I think maybe, maybe Schwarzenegger</p> <p>19 could back in the day.</p> <p>20 Q. Popeye with giant forearms maybe,</p> <p>21 something like that?</p> <p>22 A. Yeah, Popeye probably could. I don't</p> <p>23 know that I could.</p> <p>24 Q. Okay. Well, there is a handle on this</p>	<p style="text-align: center;">146</p> <p>1 measurement, but just estimate, using these</p> <p>2 estimates you'd agree that a hundred pounds</p> <p>3 of force applied at the long line, you'd need</p> <p>4 almost 200 pounds of force at this, at this</p> <p>5 point on the short line to be equivalent;</p> <p>6 right?</p> <p>7 A. Yeah. I mean, the way they're drawn I'd</p> <p>8 say that's a good ballpark.</p> <p>9 Q. Okay. So if you use the handle to try</p> <p>10 to open it, it kind of limits the amount of</p> <p>11 force that one human can apply to the open</p> <p>12 lid; right?</p> <p>13 A. Yeah, but when we, we've done testing</p> <p>14 with not this pressure cooker but with a</p> <p>15 number of similar design cookers, and without</p> <p>16 a sufficient interlock at about 4 psi</p> <p>17 grabbing the handle you can open the lid</p> <p>18 typically, like not just grabbing at the</p> <p>19 ears, but going at the handle. So the 4 psi,</p> <p>20 that's where we get the 4 psi from.</p> <p>21 Q. Okay. But that's not an Instant Pot</p> <p>22 product?</p> <p>23 A. No, but in terms of its functionality</p> <p>24 and the resistance without the interlock I</p>

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<p>1 think it's very similar.</p> <p>2 Q. All right. Here is my -- here is my</p> <p>3 point I'm trying to get to here. Do you</p> <p>4 think that the handle which limits the</p> <p>5 mechanical advantage of the user is a</p> <p>6 positive safety feature?</p> <p>7 A. I don't know that I would rate the</p> <p>8 design of this lid as positive and negative.</p> <p>9 It has the handle and it has the ears, so you</p> <p>10 can't make the argument that the presence of</p> <p>11 the handle limits the operator's force,</p> <p>12 because it doesn't, right. There is</p> <p>13 absolutely nothing that prevents the user</p> <p>14 from using the ears that are designed on it</p> <p>15 to do that, so I would say you can't make</p> <p>16 that claim is what I'm saying.</p> <p>17 Q. All right. Even though the ears you can</p> <p>18 only access with your fingers, the lid you</p> <p>19 can use full force of your arm?</p> <p>20 A. Correct. Correct, but I found that</p> <p>21 having the ears and being able to pinch is</p> <p>22 sometimes a way to get a nice -- a better</p> <p>23 torque applied.</p> <p>24 Q. I'm bringing up a couple more exhibits.</p>	<p>1 lid.</p> <p>2 A. On the pot.</p> <p>3 Q. On the pot, sorry, my mistake.</p> <p>4 MR. CALLAHAN: This is going to be</p> <p>5 Exhibit No. 11. It's 156.</p> <p>6 (Exhibit <u>Rondinone-11</u> was marked</p> <p>7 for identification.)</p> <p>8 BY MR. CALLAHAN:</p> <p>9 Q. It's one of your photographs. That's</p> <p>10 the dent you're talking about?</p> <p>11 A. Yes.</p> <p>12 Q. And there is another view of the same</p> <p>13 dent. I'm going to mark that as No. 12.</p> <p>14 It's 169. It's a picture of measuring or</p> <p>15 demonstrating the depth of the dent; right?</p> <p>16 A. Yeah, yes.</p> <p>17 (Exhibit <u>Rondinone-12</u> was marked</p> <p>18 for identification.)</p> <p>19 BY MR. CALLAHAN:</p> <p>20 Q. What caused the dent?</p> <p>21 A. I don't know.</p> <p>22 Q. You have no explanation?</p> <p>23 A. Well, I can't say what caused this dent.</p> <p>24 It's my experience that a pot like this with</p>
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<p>1 Bear with me.</p> <p>2 Okay. Would you agree that the</p> <p>3 Instant Pot product in the Durham case is a</p> <p>4 durable design?</p> <p>5 A. It appears to be. Yeah, I would say</p> <p>6 that it does appear to be a durable design.</p> <p>7 Q. During your examination did you see any</p> <p>8 signs it was damaged or abused?</p> <p>9 A. I did see signs of damage. I believe</p> <p>10 that the inner pot had a dent and I believe</p> <p>11 that the lid had evidence of heat exposure.</p> <p>12 Q. Well, let's talk about the lid quickly</p> <p>13 and then we're going to go through this more</p> <p>14 detailed. The heat exposure is not heat from</p> <p>15 steam; right?</p> <p>16 A. No, that appears to be external heat</p> <p>17 exposure.</p> <p>18 Q. Okay.</p> <p>19 A. Not from this device.</p> <p>20 Q. Yeah. The steam from the unit can't</p> <p>21 melt the plastic on the lid?</p> <p>22 A. Not at any of the pressures I think it</p> <p>23 would operate at, no.</p> <p>24 Q. Okay. You mentioned the dent on the</p>	<p>1 a dent of this geometry would typically be</p> <p>2 caused by an impact either from say shipping</p> <p>3 or dropping or hitting it with a hammer. I</p> <p>4 mean, those are all things that could do it.</p> <p>5 It appears to be an impact style dent.</p> <p>6 Q. All right. When the unit is shipped</p> <p>7 this inner pot is in the base unit; right?</p> <p>8 A. Usually. I mean, that's how I would do</p> <p>9 it.</p> <p>10 Q. That's how Instant Pot does it, too,</p> <p>11 isn't it?</p> <p>12 A. I believe when they're new the pot is</p> <p>13 inside the base and the base is inside a</p> <p>14 Styrofoam frame which is then inside a</p> <p>15 cardboard box.</p> <p>16 Q. Okay. And it would be -- I mean, do you</p> <p>17 have an explanation as to how the dent would</p> <p>18 occur during shipping and not damage the</p> <p>19 base?</p> <p>20 A. Oh, I think the only way it would occur</p> <p>21 during shipping is if it were not packaged</p> <p>22 with the OEM packaging.</p> <p>23 Q. Oh, okay. Do you have any estimate of</p> <p>24 how much force would be required to cause</p>

<p style="text-align: center;">151</p> <p>1 that dent?</p> <p>2 A. You know, I haven't measured that force, 3 but the wall thickness of the pot is very 4 thin, so it wouldn't be a lot of force. It's 5 not a high force event.</p> <p>6 Q. All right. Well, it also, it's at a 7 corner, too; right?</p> <p>8 A. It is, yes.</p> <p>9 Q. Which gives a little more stability. 10 It's a three-dimensional curve or shape?</p> <p>11 A. No. Only when you're right at the base. 12 As soon as you get up the wall a little bit, 13 it's not that much help. You can actually 14 see the deformation is not at the base. You 15 see how it primarily is farther from the 16 base, so that's what I'm pointing to.</p> <p>17 Q. Could that dent have been caused by 18 someone dropping the pot?</p> <p>19 A. It could be.</p> <p>20 Q. Could that dent have been caused by 21 someone dropping the pot while full of 22 liquid?</p> <p>23 A. Yeah, I think, I think that could 24 happen.</p>	<p style="text-align: center;">153</p> <p>1 Q. All right. Maybe that will help you, 2 Exhibit 238.</p> <p>3 A. Yeah, that's a -- that's a good 4 description of where it is. It's attached to 5 the base. It's sort of the handle ear 6 section.</p> <p>7 Q. The handle broke; right?</p> <p>8 A. Yeah, it looks like there is a fracture 9 of the plastic.</p> <p>10 Q. All right. The handle isn't referenced. 11 The broken handle isn't referenced in your 12 report anywhere, is it?</p> <p>13 A. That's correct.</p> <p>14 Q. Any explanation for that how that 15 occurred?</p> <p>16 A. No, I don't know what caused that to 17 break off.</p> <p>18 Q. Any measurement of or any estimate of 19 the force required to break that handle off?</p> <p>20 A. You know, I haven't, I haven't tried to 21 make that measurement. It would depend upon 22 the aging of the plastic and whether or not 23 there was a defect in the plastic to come up 24 with that source. No, I haven't measured</p>
<p style="text-align: center;">152</p> <p>1 Q. Okay. If you drop a pot full of liquid, 2 what happens?</p> <p>3 A. It depends on how it falls and how much 4 liquid is in there. The liquid could stay 5 in. The liquid could spill out.</p> <p>6 Q. All right. I'm kind of curious. You 7 measured the depth, but there is no reference 8 to it in your report. Why is that?</p> <p>9 A. Because I don't know how the dent 10 occurred.</p> <p>11 Q. I'm going to skip over that one. Sorry. 12 This is your Photograph 230.</p> <p>13 A. Yes.</p> <p>14 MR. CALLAHAN: We're up to Exhibit 15 13.</p> <p>16 (Exhibit Rondinone-13 was marked 17 for identification.)</p> <p>18 BY MR. CALLAHAN:</p> <p>19 Q. What does this show?</p> <p>20 A. Actually, I'm trying to remember where 21 that came from. I think that is, I want to 22 say that's part of the base. That's the 23 handle or edge or ear of the base below the 24 lid.</p>	<p style="text-align: center;">154</p> <p>1 that.</p> <p>2 Q. Could this broken handle have been 3 caused by the pot being dropped?</p> <p>4 A. I think it could be. It definitely 5 appears to be. I was just going to say it 6 definitely appears to be an impact style of 7 failure.</p> <p>8 Q. Based on the fracture point?</p> <p>9 A. Based on, yeah, yes, exactly, based on 10 review of the fracture.</p> <p>11 Q. Could this type of damage have been 12 caused by the pot tipping over on a counter?</p> <p>13 A. You mean just falling from upright to 14 sideways on a counter?</p> <p>15 Q. Yes.</p> <p>16 A. I don't think so. You'd have to give me 17 a -- you'd have to show me a hypothetical 18 where that would be realistic. I don't think 19 that that distance would be sufficient. 20 Maybe falling to the floor or maybe during 21 shipping again without the OEM packaging.</p> <p>22 Q. Unlikely to have occurred during 23 shipping with the original product packaging 24 from the store?</p>

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<p>1 A. Yeah, barring some kind of defect in the 2 plastic, like unless it's already got some 3 kind of large pre-crack, I would say yes, 4 that's true.</p> <p>5 Q. Could this handle have been broken off 6 by something being dropped on the pot?</p> <p>7 A. I guess if it's heavy enough that's 8 possible. I guess that is possible, yeah.</p> <p>9 Q. And if something was dropped on the pot 10 while it had liquid in it, what would happen 11 to the liquid?</p> <p>12 A. Well, to break this handle what would 13 probably happen is the handle would fracture 14 and the liquid would just kind of slosh 15 around but not come out if something was 16 dropped on the handle.</p> <p>17 Q. All right. Well, if you can say sloshed 18 around, it could come out if it's sloshing 19 around depending on how hot it is; right?</p> <p>20 A. I mean, if it's all the way up to the 21 top maybe, but usually when something drops 22 on a piece of plastic like this to cause the 23 fracture, the fracture in an impact like that 24 is immediate meaning that as soon as that</p>	<p>1 don't know what part of the lid would fit, 2 like if the ear, if the ear of the lid fits, 3 which I'm not sure that it does, but if it 4 did I'd bet you'd break the ear first then 5 before your break the handle just because the 6 ear is thinner, has, has a lower resistance 7 to bending. That seems unlikely. It seems 8 unlikely to use the handle as a bending tool.</p> <p>9 Q. How about something like a kitchen 10 utensil like a wooden spoon or something, 11 could that be put in there and break it off?</p> <p>12 A. If it's a strong enough wooden spoon, I 13 mean, I've seen wooden spoons that I don't 14 think could do it. Maybe like a heavy metal, 15 metal tool, like a heavy metal ladle or 16 something. I don't know, maybe a metal tool. 17 I guess a wooden tool if it's strong enough 18 could do it.</p> <p>19 MR. CALLAHAN: All right. This is 20 a picture of the lid. It's 276. This will 21 be 15. And I think the next one is also the 22 lid. Yeah, here is another picture of the 23 lid. This is 278. This will be 16.</p> <p>24 (Exhibits Rondinone-15 and</p>
156	158
<p>1 force breaks the lid -- the handle, it no 2 longer applies any type of force to tip over 3 the, the unit. So to me, to me it seems like 4 it's unlikely something falling on the handle 5 would cause the contents to come out in any 6 significant fashion.</p> <p>7 Q. All right. But not impossible, it's 8 just unlikely?</p> <p>9 A. It's not impossible, but I'd say it's 10 extremely unlikely.</p> <p>11 Q. How about some, something stuck in that 12 little slot and like leveraged off the 13 handle, could that have occurred?</p> <p>14 A. Yeah, I guess you could do that. You 15 could put like a screwdriver or a crowbar in 16 there or something. I guess you could, but 17 you'd have to -- you'd have to impact it, 18 meaning you'd have to put it in and pound on 19 the tool basically. I think that, I think 20 that could cause it.</p> <p>21 Q. How about if the lid was set into that 22 little slot, could you push on the lid and 23 break it off?</p> <p>24 A. I -- like maybe using -- I don't -- I</p>	<p>1 Rondinone-16 were marked for identification.)</p> <p>2 BY MR. CALLAHAN:</p> <p>3 Q. These two pictures show heat damage to 4 the lid; right?</p> <p>5 A. I agree.</p> <p>6 Q. And you don't know when this occurred?</p> <p>7 A. No. There isn't -- there is no way to 8 know.</p> <p>9 Q. Was the sealing ring or the -- yeah, the 10 sealing ring inside the lid, was that also 11 damaged by heat?</p> <p>12 A. Not significantly, because I believe 13 this lid could still seal. You know, in our 14 testing I think this is the lid we used. I 15 know that we used an exemplar weight, 16 pressure release weight valve, but I think 17 the rest of it sealed. So I don't think that 18 this was functionally detrimental. Even 19 though it looks pretty bad, I think it still 20 works.</p> <p>21 Q. Well, that's my question. You tested 22 the unit. The inner pot was dented, the 23 handle was broken off, the lid was melted, 24 and it still operated safely during your</p>

<p style="text-align: center;">159</p> <p>1 test? 2 A. That's true. 3 Q. It functioned exactly as intended even 4 notwithstanding all that damage? 5 A. I agree with that. 6 Q. In Section 2 of your report, and maybe 7 I'll bring that up so we can look at it. 8 Section 2 you offered a conclusion that the 9 float valve is exposed to potential clogging 10 from food, despite the fact that Instant Pot 11 has used pressure protective -- has used 12 protective screens in other pressure cooker 13 models. 14 A. Yes. 15 Q. That's your opinion in this case; right? 16 A. Yes. 17 Q. Can you quantify this potential in any 18 way? 19 A. Um, no, I don't think -- I don't think I 20 could statistically quantify that. 21 Q. So this potential causing -- clogging 22 could occur one in every hundred uses or one 23 in every hundred thousand uses or one in 24 every hundred million uses?</p>	<p style="text-align: center;">161</p> <p>1 the fact that there is no shield, there is no 2 protection, means that you are exposing it to 3 the food which can clog it. 4 Q. My question was, what descriptions of 5 incidents suggest a valve close -- a valve 6 clogging? 7 A. Oh, well, so this, this description of 8 this incident is a very good example, right. 9 We have an incident that's described as the 10 pressurized release of contents which can 11 only happen if it's under pressure while the 12 unit is being opened by hand. 13 The interlock mechanism on this 14 pot in my opinion is sufficient to prevent 15 the unit opening under pressure that would 16 eject contents, which means that in order for 17 the description of the pressurized release of 18 contents to occur, this valve has to be 19 clogged in a position that doesn't interface 20 with the interlock. 21 And by not interfacing with the 22 interlock, it will allow a user to open it 23 when the pressure is fairly low, meaning I 24 believe most likely around 2 psi, because the</p>
<p style="text-align: center;">160</p> <p>1 A. I mean, I wouldn't put a number on it. 2 I'd say that I personally have seen cases 3 where the description provided by the 4 witnesses indicate clogging of the valve from 5 food, and I've seen that more than once on 6 Instant Pot cases. So, you know, I don't 7 think it's like one in a hundred thousand or 8 one in a million, but I couldn't give you a 9 number, a specific number.</p> <p>10 Q. Well, what's the description that leads 11 you to conclude it might have been clogging 12 of the valve?</p> <p>13 A. Well, because the valve, the physics 14 clearly dictates that the valve's exposure to 15 the cooking, to the cooking food will allow 16 the potential for the food to clog. I mean, 17 it's exactly why Instant Pot is using a 18 shield on its pressure release, because they 19 don't want food to be entrained and they 20 don't want food to get into the valve and 21 they don't want food gumming up the seal or 22 hitting the feet or any of that.</p> <p>23 And Instant Pot uses a shield for 24 this exact float valve on other products, but</p>	<p style="text-align: center;">162</p> <p>1 description does not describe an event with 2 extensive release of contents. It sounds 3 like the release of contents is actually 4 fairly small. None of the food actually 5 comes out, only liquid in the description, 6 and to me that indicates a fairly low, about 7 2 psi pressure release I'd just say based on 8 my experience, and that to me indicates that 9 you had to have had a clogged float valve, 10 because the clogged float valve would allow a 11 user to open it without the benefit of the 12 interlock, and it will allow it to hold 13 pressure even if the valve appears to be in 14 the bottom position, the lower position.</p> <p>15 Q. Okay. So is it your opinion that 16 because she was able to get it open the valve 17 had to be clogged?</p> <p>18 A. In order for her to have gotten it -- in 19 order for her to have been able to get it 20 open and have a described pressurized release 21 of contents, then I think in this case the 22 valve has to be clogged, yes.</p> <p>23 Q. Any other basis for your opinion the 24 valve was clogged?</p>

<p style="text-align: center;">163</p> <p>1 A. With the -- with the evidence in this 2 case, no. I would say that's it. I have had 3 other Instant Pot cases where the 4 descriptions are very similar to this where 5 the user is describing the capacity to open 6 the lid when, when the unit is under 7 pressure. And in those cases I believe, at 8 least in some of them, the interlocks were 9 functioning, which means it can only happen 10 with a clogged valve to get a pressurized 11 release, so this isn't the only time I've 12 seen that. I think that's it.</p> <p>13 Q. Have you written a report in any other 14 Instant brand case where you said the float 15 valve was clogged?</p> <p>16 A. I don't know.</p> <p>17 Q. Okay. So let me see if I, let me see if 18 I understand. So you have -- I'm trying to 19 bring a couple of answers together in one 20 place if I can.</p> <p>21 So the reason you believe the 22 float valve was clogged or was clogged is the 23 user was able to open it, there was an 24 ejection of contents, the ejection was small,</p>	<p style="text-align: center;">165</p> <p>1 them all. I think they're all necessary. 2 Q. Okay. So if a jury disbelieves any one 3 of them or a judge disbelieves any one of 4 them, your opinion has no support, at least 5 scientific support as you've defined it?</p> <p>6 A. If you make an assumption that any of 7 those things are not present, then I guess 8 you don't get the pressurized release of 9 contents, I guess. I think that's what the 10 result would be.</p> <p>11 Q. Okay. If, if the float valve -- well, 12 let me say it this way. If the lid is fully 13 closed, the float valve is not blocked from 14 rising or falling; correct?</p> <p>15 A. Okay.</p> <p>16 Q. True?</p> <p>17 A. Well, if we make the assumption that 18 it's not clogged then that's true.</p> <p>19 Q. All right. Well, what happens under 20 normal operating conditions to the float 21 valve?</p> <p>22 A. Under normal --</p> <p>23 Q. If there is contents in it, what 24 happens?</p>
<p style="text-align: center;">164</p> <p>1 and I guess throw in there the locking 2 mechanism is more than sufficient to prevent 3 her from opening it under pressure?</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 A. And I would also add from one of the 7 earlier answers that we do know that, that 8 you can potentially clog it, right. So you 9 put all of those pieces lined up together and 10 you get this opinion.</p> <p>11 Q. Okay. No other basis?</p> <p>12 A. I think we've covered everything.</p> <p>13 Q. Okay. Can you rank these supporting 14 bases in order of importance to your opinion?</p> <p>15 A. No. I'd say that you'd probably have to 16 have all of them, right. You'd have to have 17 an interlock that, that's not interlocking, 18 meaning the float valve is in the down 19 position. You have to have a clog to hold 20 the pressure while the float valve is in the 21 down position. You'd have to have a user 22 apply a turning motion to open the lid. 23 You'd have to have the pressurized ejection 24 of contents. I'd just say you have to have</p>	<p style="text-align: center;">166</p> <p>1 A. Under normal operating conditions if the 2 lid is fully closed the unit will start to 3 build pressure. It will build sufficient 4 pressure to raise the float valve to its up 5 position and then it will continue to build 6 pressure to operating pressure.</p> <p>7 Q. Okay. How long does it take for the 8 float valve to rise?</p> <p>9 A. That depends on the thermal mass of the 10 contents and probably also the ambient 11 temperature and the temperature of the 12 contents when they're put in, but, you know, 13 it's in the minutes range. It's not in the 14 seconds range. It's not in the hours range.</p> <p>15 Q. Okay. So minutes?</p> <p>16 A. Yeah, I believe so.</p> <p>17 Q. What's that?</p> <p>18 A. Yes. Yes, I agree minutes.</p> <p>19 Q. And during this time the contents are 20 heating; correct?</p> <p>21 A. Yes.</p> <p>22 Q. So for some of these units the contents 23 are relatively cool, they're not cooking yet; 24 right?</p>

<p style="text-align: center;">167</p> <p>1 A. As soon as the power is applied to the 2 heating element the contents will start to 3 raise in temperature.</p> <p>4 Q. All right. The cook cycle starts or the 5 countdown starts when the unit is 6 pressurized, well, when the unit reaches 7 pressure, cooking pressure; right?</p> <p>8 A. Yes, for pressurized cooking I believe 9 that is true.</p> <p>10 Q. Okay. And when the float valve is up, 11 is it susceptible to clogging?</p> <p>12 A. Is there a question?</p> <p>13 Q. Oh, you didn't hear me?</p> <p>14 A. Well, you said and the float valve is 15 susceptible to clogging and that sounded like 16 a statement to me.</p> <p>17 Q. I'm sorry, maybe we cut off with Zoom. 18 If the float valve is in the up position, is 19 it susceptible to clogging?</p> <p>20 A. You could still clog it in the up 21 position, but I believe that -- I guess it's 22 possible. I guess it's possible, but if it 23 was clogged in the up position it will still 24 function as an interlock device.</p>	<p style="text-align: center;">169</p> <p>1 Q. It's a document. It's one of your 2 photos marked valve, Float Valve B. Do you 3 have that in front of you or visible?</p> <p>4 A. I do see it. Yes, I do see that.</p> <p>5 Q. Okay. I just want to be sure I 6 understand your opinion here. This is the, 7 this is the float valve in a down position; 8 right?</p> <p>9 A. Yes.</p> <p>10 Q. And it's your opinion that basically 11 food rose up from the bottom into this space 12 here, clogged the orifice and clogged the two 13 bypass holes?</p> <p>14 A. Yes, and also the act of pressurizing 15 will then push the float valve to capture 16 what food is present in there, so yes, you're 17 essentially right. The blue arrows indicate 18 at least approximately the motion of the 19 product to cause the clog.</p> <p>20 Q. All right. And for your clogging to 21 occur the entire circumference of the orifice 22 has to be clogged; correct?</p> <p>23 A. Yes.</p> <p>24 Q. And both bypass holes need to be</p>
<p style="text-align: center;">168</p> <p>1 Q. Define what do you mean? How could it 2 clog in the up position?</p> <p>3 A. If the float valve is raised to the up 4 position and then later in the cooking 5 process the food had clogged the -- and I 6 guess in this case it's more like stuck the 7 valve, right. The food has come over the 8 bottom of the float valve and has kind of 9 clogged its position, meaning it stuck its 10 position. I would consider that a clog even 11 though it's in the up position, but if it's 12 in the up position when that happens then I 13 don't think you could open, a user could open 14 it with manual force.</p> <p>15 Q. Okay. So if the float valve rises and 16 is stuck in the up position, that's a safe 17 position in this product?</p> <p>18 A. Yes, I agree.</p> <p>19 MR. CALLAHAN: Okay. Whoops, I 20 almost pressed leave. This is going to be 21 marked Exhibit 17.</p> <p>22 (Exhibit Rondinone-17 was marked 23 for identification.)</p> <p>24 BY MR. CALLAHAN:</p>	<p style="text-align: center;">170</p> <p>1 clogged; correct?</p> <p>2 A. Yes, or the food has to get into the 3 cylinder just past the bypass holes, but yes.</p> <p>4 Q. All right. Or I guess the entire, the 5 entire bore through the cylinder could be 6 clogged as well; right?</p> <p>7 A. I mean that's possible, yes.</p> <p>8 Q. Any more or less possible than your 9 general clogging scenario?</p> <p>10 A. No. I mean, I wouldn't -- I wouldn't 11 statistically quantify any of those.</p> <p>12 Q. Okay. When the float valve is in the up 13 position the food can't pass the silicon seal 14 to get up in the orifice; correct?</p> <p>15 A. No. If the float valve is in the up 16 position, the food will either go on top of 17 that elastomeric seal or the food can act as 18 a stiction between that elastomeric seal and 19 the bottom of that outer cylinder assembly 20 through which the valve moves up and down.</p> <p>21 Q. Is it your opinion that the float valve 22 must be blocked down for this clogging theory 23 to occur?</p> <p>24 A. In order for the theory that I've</p>

<p style="text-align: center;">171</p> <p>1 expressed in my opinions to occur I believe 2 that the float valve is clogged while in the 3 down position, and I believe that that can 4 occur in a more easy fashion because if the 5 lid is closed nearly all the way but not all 6 the way, the unit will cook and the slider 7 will prevent the float valve from coming up 8 all the way, but it will allow it to come up 9 a short distance, and it's in that position 10 where it's still in the down position, the 11 nonlocked position, where the clogging can 12 then allow a user to open the unit while it's 13 still under pressure.</p> <p>14 Q. I'm sorry, my phone rang and distracted 15 me. I'm not sure you answered my question. 16 Is it necessary that the -- for your 17 hypothetical clogging scenario to occur, is 18 it necessary that the float valve be blocked 19 down?</p> <p>20 A. It has to be blocked in the down 21 position in order for a person to be able to 22 apply a manual force to open under pressure.</p> <p>23 Q. So if the lid is fully closed your 24 theoretical valve blocking cannot occur?</p>	<p style="text-align: center;">173</p> <p>1 Q. Can you quantify the risk of the float 2 valve being blocked in the down position 3 while fully closed, while the lid is fully 4 closed?</p> <p>5 A. I would not -- I would not put a 6 statistical quantity on that.</p> <p>7 Q. Because you cannot?</p> <p>8 A. I cannot.</p> <p>9 Q. And you can't put a statistical quantity 10 on when it's blocked down either because you 11 cannot?</p> <p>12 A. That's true. I have not done sufficient 13 testing to evaluate either of those 14 quantities.</p> <p>15 Q. The float valve, is it important that 16 the user inspect it regularly?</p> <p>17 A. I mean, I would. I think that you do 18 want to make sure that it moves freely.</p> <p>19 Q. You wouldn't clean it?</p> <p>20 A. Well, to a certain extent. I don't know 21 how many users would take it apart and clean 22 it and put it back together. I think that 23 might be beyond most user's ability, but I 24 think you'd at least want to do an external</p>
<p style="text-align: center;">172</p> <p>1 A. No, you can still block it in the down 2 position. The food would then be the -- the 3 food blocking would then be providing the 4 down position maintenance.</p> <p>5 Q. All right.</p> <p>6 A. I just think it's easier if you have the 7 help of the slider.</p> <p>8 Q. Because if it's fully closed you only 9 have a few minutes to block it before the 10 float valve rises; right?</p> <p>11 A. That's true. I'd say that's fair.</p> <p>12 Q. And is it your opinion that this total 13 circumphral clogging and filling the bore can 14 occur in the first few minutes during that 15 temp --</p> <p>16 A. I believe it could. Yes, I believe that 17 it could, although I think it's more likely 18 that the lid was not quite fully closed and 19 that allowed the slider to assist in keeping 20 the float valve in the down position, but I 21 believe it could occur either way.</p> <p>22 Q. And what's more likely than the other?</p> <p>23 A. I believe it's more likely that the lid 24 was nearly fully closed but not fully closed.</p>	<p style="text-align: center;">174</p> <p>1 cleaning of it.</p> <p>2 Q. How do you clean it? How do you take it 3 apart?</p> <p>4 A. Most of these float valves allow you to 5 take off the elastomeric endpiece and then 6 pull it from, from above.</p> <p>7 Q. So you pop the little white piece off 8 and it falls out?</p> <p>9 A. Yeah, for most of them that's how you do 10 it.</p> <p>11 Q. And that's how this one, this one is 12 too; right?</p> <p>13 A. I believe that's how this one functions 14 as well.</p> <p>15 Q. And there are -- you don't know?</p> <p>16 A. I don't recall trying to take the 17 elastomeric end off of this particular float 18 valve, but that's my understanding of almost 19 every one I've ever seen. They'd be that 20 exact way.</p> <p>21 Q. Did Mr. King take it off?</p> <p>22 A. I don't recall.</p> <p>23 Q. Did you see a photograph of him taking 24 it off?</p>

<p style="text-align: center;">175</p> <p>1 A. Possibly. I haven't memorized every 2 photograph I have. Would you like me to look 3 through? I'd be happy to do so now.</p> <p>4 Q. I'm not sure that's necessary. I think 5 the photographs speak for themselves.</p> <p>6 A. I would agree with that.</p> <p>7 Q. If the float valve was covered by a 8 protective screen, is it more likely or less 9 likely that a user would check the float 10 valve and clean it?</p> <p>11 A. Um, I think if the user were given 12 specific instructions on how to remove the 13 gate -- the guard and then clean it, I don't 14 think it would be any less likely. And in 15 fact, a lot of the cookers that have the full 16 baffle underneath the lid, that full baffle 17 is meant to be taken off and cleaned which 18 would then expose this exact mechanism that 19 we're seeing just like this. So, no, I don't 20 think it would be less likely that they would 21 clean it.</p> <p>22 Q. Sorry, I'm grabbing a couple of 23 pictures.</p> <p>24 MR. KRESS: Dennis, for planning</p>	<p style="text-align: center;">177</p> <p>1 which were previously marked as Exhibit 3, do 2 you see that in front of you?</p> <p>3 A. I do.</p> <p>4 Q. All right. I want to talk about these 5 lid position measurements down here. 6 First of all, you didn't take 7 these measurements, did you?</p> <p>8 A. I think Derek King was the one who 9 recorded them. I might have -- I can't 10 remember if I was present when they were 11 taken or not, but I have seen the 12 measurements. I think he was the one who 13 recorded them.</p> <p>14 Q. And how do those measurements relate to 15 this photograph, Exhibit 402?</p> <p>16 A. So -- yeah, so you can see the 17 measurements marked. I'm going to pull up my 18 note file. Yeah, so you can see how there 19 are arrows at the 0.5 centimeter, 1.4-ish, 20 it's like 1.35 or something, just between 3 21 and 4, just over 2, about 2.1 centimeters and 22 then at 2.8 centimeters. Those arrows I 23 believe are indications of the marks that are 24 showed at the, at the lid positions that are</p>
<p style="text-align: center;">176</p> <p>1 purposes, how much do you think you have 2 left?</p> <p>3 MR. CALLAHAN: Two and a half 4 hours, three hours maybe.</p> <p>5 MR. KRESS: All right.</p> <p>6 MR. CALLAHAN: Do you want to take 7 a break?</p> <p>8 MR. KRESS: Yeah, we'll be taking 9 a few breaks.</p> <p>10 MR. CALLAHAN: All right, 11 whatever. Let me know.</p> <p>12 THE VIDEOGRAPHER: Do you want to 13 do a break now?</p> <p>14 MR. KRESS: Yep.</p> <p>15 THE VIDEOGRAPHER: All right. Off 16 the record, 4:30.</p> <p>17 (Recess; 4:30 p.m.)</p> <p>18 - - -</p> <p>19 (Resumed; 4:39 p.m.)</p> <p>20 THE VIDEOGRAPHER: We're back on 21 the record.</p> <p>22 BY MR. CALLAHAN:</p> <p>23 Q. Okay. I'm sharing. I already marked 24 this. Sorry, my bad. The inspection notes</p>	<p style="text-align: center;">178</p> <p>1 measured in the note file. 2 So you can see when you slide the 3 lid slightly the slider is fully retracted. 4 If you slide it further, you can see the 5 slider starts moving due to the interaction 6 of the flange at 1.4. If you slide it 7 further -- so we're starting at the closed 8 position and then you're moving away. As you 9 applied it farther from the closed position 10 towards open, at 2.1 centimeters the slider 11 now obstructs the float valve, and then at 12 2.8 centimeters the magnetic switch engages 13 the detection of the lid now being detected 14 at the not fully closed position. That's 15 essentially what that means.</p> <p>16 MR. CALLAHAN: Okay. First of 17 all, this photograph, Exhibit -- I've marked 18 it as, actually it's going to be 18. Sorry, 19 and the exhibit number ends 402.</p> <p>20 (Exhibit <u>Rondinone-18</u> was marked 21 for identification.)</p> <p>22 BY MR. CALLAHAN:</p> <p>23 Q. This is one of your -- this is a 24 Berkeley Engineering photograph; correct?</p>

<p style="text-align: center;">179</p> <p>1 A. It sure looks like it. What was the 2 number on it, 402?</p> <p>3 Q. 402.</p> <p>4 A. Yeah, that's exact, yeah. Yes, it is 5 one of ours, yes.</p> <p>6 Q. Okay. And this shows the lid in a fully 7 closed position; right?</p> <p>8 A. Yeah, this is a closed position 9 orientation.</p> <p>10 Q. Okay. So this is the top piece up here 11 is the lid and it bumps up against the stop 12 here on this lower lip; right?</p> <p>13 A. Yes. That is against the stop, yes.</p> <p>14 Q. All right. And the first little arrow 15 means what?</p> <p>16 A. So the first arrow is where it starts. 17 It's up against the side.</p> <p>18 Q. Okay. What do you use to measure it in 19 the lid?</p> <p>20 A. You can see there is a mark on the 21 outside of the lid, it's just like a circular 22 mark, just the edge of that mark.</p> <p>23 Q. All right. That's the -- is that the 24 hole for the --</p>	<p style="text-align: center;">181</p> <p>1 A. Yep.</p> <p>2 Q. Then at 1.4 this slider begins to move 3 meaning what?</p> <p>4 A. Yeah. So at that point the slider is 5 engaging the flange that is not visible but 6 it's on the base unit, and that's forcing the 7 slider radially outward. So that's where the 8 slider starts to move and that's part of the 9 interlock mechanism. The moving of that 10 slider is what would be prevented if the 11 float valve were up.</p> <p>12 Q. Okay. And then 2.1 is what?</p> <p>13 A. 2.1 is the slider has now moved far 14 enough that the slot in the slider is no 15 longer aligned with the float valve and it 16 would prevent the float valve from, from 17 rising.</p> <p>18 Q. All right. So anywhere between .5 and 19 2.1 is essentially closed; correct?</p> <p>20 A. That's right.</p> <p>21 Q. There is no, there is no difference 22 between .6 and 1.6. From the pot's 23 perspective it's going to function the same; 24 correct?</p>
<p style="text-align: center;">180</p> <p>1 A. No, I believe the slider is somewhere 2 else. It's not visible in the photograph. 3 If we look at --</p> <p>4 Q. Okay.</p> <p>5 A. Yeah, I'm looking at, hold on -- well, 6 that might be where it's coming out. Let me 7 flip through my photos. It is, it is about 8 the right size and orientation and it's in 9 about the right place. Yeah, no, I think 10 that is where. I think that is where the pin 11 exists for the slider. I'm going to say 12 that -- you see that metal section? Yeah, 13 when you zoomed in you could see it. That's 14 a much better view. You see when you zoom in 15 you can see the metal reflection on the end 16 of the pin?</p> <p>17 Q. Yes.</p> <p>18 A. Yeah, so that's what we're looking at. 19 And the marks on the, on the ruler at the 20 bottom are at the edge of the circle, not 21 the -- not the pin it itself.</p> <p>22 Q. Okay.</p> <p>23 A. Yes.</p> <p>24 Q. So this first mark, that's fully closed?</p>	<p style="text-align: center;">182</p> <p>1 A. Yeah, I think that's fair.</p> <p>2 Q. The magnetic sensor will sense the lid 3 is in a proper position. The float valve is 4 unrestricted and will rise and pressurize; 5 right?</p> <p>6 A. Yes, that's correct.</p> <p>7 Q. Okay. So earlier when we were talking 8 about, well, maybe the user will bounce the 9 lid off the stop, they've got to bounce the 10 lid off the stop all the way back out to this 11 2.1 mark to make a difference; right?</p> <p>12 A. Yeah, it would have to move about one 13 and a half centimeters.</p> <p>14 Q. All right. And then this difference 15 between 2.1 and 2.8, this is the range you 16 say that it senses the lid's position but the 17 float valve is still blocked?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And the blocking of the float 20 valve is by design; correct?</p> <p>21 A. Not at this position it isn't, because 22 it's only by design when the lid thinks that 23 it's not fully closed. This is not by 24 design. What you're looking at here is</p>

<p style="text-align: center;">183</p> <p>1 something that the electronics believe it's 2 fully closed when in fact it is not and it 3 will not function if fully closed properly. 4 Q. Okay. When is the lock engaged? 5 A. What do you mean? 6 Q. Well, if the -- never mind. Strike 7 that. I'll ask a different question. 8 MR. CALLAHAN: I'm going to move 9 to the next picture, 403, and I'll mark this 10 as No. 19, Exhibit 19 for the deposition. 11 (Exhibit <u>Rondinone-19</u> was marked 12 for identification.) 13 BY MR. CALLAHAN: 14 Q. This is the other end of the tape? 15 A. Yes. 16 Q. What do these numbers represent? 17 A. They're the last three entries in that 18 text file. 6.9 just before 7, that's where 19 the slider is still fully obscuring the float 20 valve. 7.9 just before 8 is where the float 21 valve is barely obstructed, meaning at that 22 point the float valve will not rise, and then 23 8.4 is all the way, is all the way open as 24 far as it will go.</p>	<p style="text-align: center;">185</p> <p>1 perform that statistical analysis, and so I 2 do not have quantitative numbers for the 3 statistical results for any of these, right. 4 I haven't done statistical analysis or the 5 sufficient work necessary to do that. 6 Q. All right. So you can't tell me if the 7 user, you know, the lid is going to be left 8 in this position one in a thousand times, one 9 in a hundred thousand times? You have no 10 estimate at all? 11 A. I don't have a value for that. No 12 matter how many times you ask that the answer 13 is always going to be the same. I have not 14 done the statistical analysis. 15 Q. And that's because that number is just 16 unknown to you; right? 17 A. It's because the amount of work 18 necessary to do that whether it's hundreds or 19 thousands of tests, and it might be thousands 20 to do the statistical analysis properly, you 21 just have to know that it can happen. You 22 need to treat it as a risk as such, period. 23 If you want to treat it as non-risk or a low 24 risk, then you would have to do the</p>
<p style="text-align: center;">184</p> <p>1 Q. Okay. In all these positions if the lid 2 is only turned that, that much, the unit is 3 not heating; right? 4 A. In all of these positions the unit will 5 not heat. 6 Q. All right. So basically anywhere from 7 2.8 out to 8 and a half, the unit is not 8 heating at all? 9 A. That's true. 10 Q. So it's your opinion that Ms. Durham 11 left the lid in this gap between 2.1 and 2.8? 12 A. I think that's the more likely of the 13 two scenarios, yes. 14 Q. Can you quantify the chance that a user 15 will leave the lid in this intermediate 16 position between 2.1 and 2.8? 17 A. No. And I just want to say that I think 18 you've already asked me statistical questions 19 maybe 20 times or so, and the answer is 20 always going to be the same, and I'll just 21 say it very clearly. I have not done 22 statistical analysis on this. I have not 23 done the required, you know, hundreds or 24 thousands of tests that would be necessary to</p>	<p style="text-align: center;">186</p> <p>1 statistical study. 2 Q. Again, my question is the risk is 3 unknown to you sitting here today in the 4 deposition? 5 A. And my answer is the exact same. The 6 risk is known because it is present. The 7 number or the value of the risk, a 8 statistical number is not known without doing 9 the testing. 10 And in order to assume that the 11 risk is a small value, you need to do the 12 statistical testing because you have to prove 13 it's a small value. If all you want to do is 14 assume that it's possible and therefore a 15 risk, period, end of story, you do not have 16 to do the statistical testing. 17 So for my opinion, you don't have 18 to do the statistical testing because I'm not 19 trying to demonstrate the number of the -- 20 the value number of the risk, but if Instant 21 Pot or if somebody wants to claim that this 22 risk is insignificant then they have to do 23 the statistical study to demonstrate that, 24 period. And that will be the same no matter</p>

<p style="text-align: center;">187</p> <p>1 how many times you ask the question. My 2 answer is still the exact same.</p> <p>3 Q. Ms. Durham testified that the lid was 4 fully closed, did she not?</p> <p>5 A. I believe that she stated that the lid 6 was closed or certainly that she believed 7 that the lid was closed.</p> <p>8 Q. Do you accept that testimony?</p> <p>9 A. Well, I mean, I know she didn't measure 10 it, but I do believe that she believes the 11 lid was closed.</p> <p>12 Q. That's not my question. Do you accept 13 her testimony that it was closed?</p> <p>14 A. You know, her testimony is what it is. 15 It's my opinion that most likely it was 16 nearly fully closed but not fully closed.</p> <p>17 Q. So you reject her testimony?</p> <p>18 A. No. You seem to think, and you've asked 19 this many, like three times in a row now, she 20 didn't measure the exact position of the lid 21 and the description of closed to me could be 22 anywhere in this range. Anywhere in this 23 range in my opinion the machine thinks it's 24 fully closed, and therefore I would call it</p>	<p style="text-align: center;">189</p> <p>1 that and sort of skip all of this back and 2 forth. I think we'll save time. (Pause.)</p> <p>4 Q. Okay. This is Ms. Durham's testimony 5 from Page 143. Right there, 143?</p> <p>6 A. Okay.</p> <p>7 Q. You reviewed her deposition; correct?</p> <p>8 A. Yeah, I believe you already showed us 9 that she believes it's counterclockwise to 10 close, which by the way I do believe is 11 incorrect.</p> <p>12 Q. Okay. I asked her. Actually I think I 13 got it wrong.</p> <p>14 A. And that's possible. Yeah, it's 15 possible your question was wrong and she 16 agreed with you.</p> <p>17 Q. Yeah, at some other point. Yeah, I had 18 my lefty-loosey, right-tighty thing all 19 backwards. Her answer was when I asked her 20 do you turn it until it stops or is it some 21 other point, she says, "It will stop. It 22 will -- when it closes and locks it will 23 stop. The lid handles -- well, the lid fins 24 will meet up with the handle, well, on the</p>
<p style="text-align: center;">188</p> <p>1 fully closed even though there is a 2.8 to 2 0.5 centimeter range there that we've 3 identified.</p> <p>4 So you can't, you can't say that 5 I'm disregarding her testimony, right, 6 because that's kind of like saying that the 7 machine is being disregarded as being fully 8 closed, right. I'm just saying that I 9 believe that she believes that it was fully 10 closed.</p> <p>11 Now, does that mean up against the 12 stop or does that mean somewhere in this 2 13 centimeter range, I don't know, but I'm not 14 throwing out her testimony and saying that 15 she's wrong. I'm just saying that, yeah, she 16 believed it was fully closed.</p> <p>17 Q. But her testimony is not that she 18 believed it was closed. She testified she 19 checked the marking on the front of the lid, 20 it was centered, and the fins lined up with 21 the handles. That's her testimony, isn't it?</p> <p>22 A. So why -- why don't you read me her 23 testimony then so we can just not have any 24 more guesswork on that. Why don't we just do</p>	<p style="text-align: center;">190</p> <p>1 pot."</p> <p>2 You know, what she's referring to, 3 right? We talked about the fins before?</p> <p>4 A. Yeah, exactly. And because the pot 5 handles are much wider than the fins, it 6 could -- it could be in the not fully closed 7 position and still be lined up.</p> <p>8 Q. And I again ask her, "And do you 9 remember on the incident that you turned the 10 lid all the way so it stopped?" Her answer 11 was, "Yes," not I believe I did, she said yes 12 unequivocally; right?</p> <p>13 A. No, no, she definitely said yes, but 14 that's, but that's clearly her belief, right.</p> <p>15 Every answer, every one of these answers was 16 yes, that's what I believe what it was, 17 right, every single one. She doesn't -- I'm 18 sure she, what she's stating there she 19 believes is absolutely true.</p> <p>20 Q. Isn't that true of your testimony as 21 well?</p> <p>22 A. I'm sorry, what?</p> <p>23 Q. Isn't that true of your testimony as 24 well?</p>

<p style="text-align: center;">191</p> <p>1 A. I think that's true of everybody's -- I 2 think that's true of everybody's testimony, 3 and I think that her description of, you 4 know, when it closes and the lid fins meet 5 up, right, and, and it locks to a stop, 6 right, that doesn't mean that it was exactly 7 up against the stop. It doesn't mean that 8 there is only one millimeter position where 9 it could be. It means that she observed that 10 the fins appeared to be lined up.</p> <p>11 And she, I don't think she 12 measured any of it. Were the fins in the 13 dead center? Who knows. You know, was 14 the -- was the lid all the way up against the 15 stop? Who knows? That's not what she's 16 saying. What she's saying is that through 17 your question, do you remember you turned it 18 all the way, she's like, yeah, but that's, to 19 me that doesn't say it was only in absolutely 20 one position, couldn't be a millimeter off. 21 That's not what it says to me.</p> <p>22 Q. Okay. But a millimeter off is 23 essentially closed according to, according to 24 you; right?</p>	<p style="text-align: center;">193</p> <p>1 A. Okay. 2 Q. Again, she's essentially saying it's 3 closed, right, fully closed? 4 A. That's right, just like the machine says 5 it's closed when it's not fully closed, 6 right. Your machine, Instant Pot's machine 7 says the unit is fully closed at the 2.8 8 centimeter mark, okay, and that just means 9 that it's in that range of fully closed.</p> <p>10 So when I read this I'm not 11 reading this as, yes, I measured it, this is 12 exactly where it was. It simply means that, 13 yes, that's the approximate position because 14 I think that's all you can testify to.</p> <p>15 Q. Under your hypothesis the float valve 16 gets clogged, how long does it take to clog?</p> <p>17 A. I don't have a number for that.</p> <p>18 Q. Minutes, hours, seconds, what?</p> <p>19 A. I don't have a number for that. I don't 20 think it's hours. I think it would be on the 21 order of minutes, but even then I wouldn't 22 give you a number.</p> <p>23 Q. You can't put a range on it?</p> <p>24 A. Nope.</p>
<p style="text-align: center;">192</p> <p>1 A. What I'm saying is it doesn't say how 2 far it's off. It could be a millimeter. It 3 could be 10 millimeters. It could be 15. I 4 don't know. She didn't measure it.</p> <p>5 Now, am I saying that it had to be 6 partially opened? No, I'm not. It could be 7 closed all the way and it could be clogged in 8 the down position as we already discussed and 9 I already answered in detail, and that's also 10 possible, but I think it's also possible and 11 in my opinion more likely that it wasn't 12 closed all the way because it's easier to 13 achieve the clog in that position, but it 14 could have been closed all the way. I'm not 15 discounting that. I'm just saying that I 16 believe more likely it would probably be not 17 quite fully closed.</p> <p>18 Q. I asked her another time about whether 19 it was closed and she described, "Well, it 20 will. The handle -- the handle flaps and the 21 handles will meet. And did that happen, did 22 the handle and handle flaps meet," and her 23 answer was, "Yes." That's in Page 135 of her 24 deposition.</p>	<p style="text-align: center;">194</p> <p>1 Q. That's not important for your opinion?</p> <p>2 A. Nope.</p> <p>3 Q. What pressure can it reach when it was 4 clogged?</p> <p>5 A. When it's clogged you could probably run 6 to operating pressure if it's clogged nicely.</p> <p>7 Q. Probably?</p> <p>8 A. Yeah. Well, like I said, I haven't done 9 the statistical testing on it. I can't tell 10 you how often and how much, but if it's 11 clogged it will hold pressure.</p> <p>12 Q. Do you know how much pressure?</p> <p>13 A. I have not measured that.</p> <p>14 Q. What happens if the unit doesn't reach 15 operating pressure during its cooking cycle?</p> <p>16 A. I think if it doesn't reach operating 17 pressure it probably will just continue to 18 cook or attempt to cook. I don't know at 19 what point it gives up.</p> <p>20 Q. Will it begin the countdown?</p> <p>21 A. I think the countdown usually starts 22 when a specified pressure is met. Whether 23 that's the full pressure or not, I haven't 24 seen the algorithm, but I believe it would</p>

<p style="text-align: center;">195</p> <p>1 have to be at least approaching the full 2 pressure in order for the countdown to start. 3 Q. Your experience was -- you can't answer 4 my question based upon your experience on 5 this unit? 6 A. Well, yeah, because the operating 7 pressure is not a fixed value. There is 8 oscillation at the operating pressure and so, 9 you know, because I don't have the exact 10 number of which the countdown starts I can't 11 give you the exact number, but I believe it's 12 in that range of the operating pressure. 13 Q. Did Ms. Durham testify that the cook 14 cycle was unusual in any way? 15 A. I don't think so. 16 Q. Did she recall that the countdown 17 started? 18 A. I don't recall her exact words, but it 19 was my understanding that, that she believed 20 that it went through the full cook cycle 21 which would imply that the countdown had 22 started and ended. 23 Q. Well, she testified to certain events 24 that occurred during the cook cycle; right?</p>	<p style="text-align: center;">197</p> <p>1 all the way, that is true. 2 Q. Do you recall what Ms. Durham said about 3 the float valve on the day of the incident? 4 A. Yes. I believe that she, that she 5 stated that she observed it in what she 6 believed was the up position. 7 Q. This is Ms. Durham's testimony from Page 8 151. I asked her, "On the day of the 9 incident do you have a specific memory of the 10 float valve popping up at some point in 11 time?" And her answer was, "Well, yes, I 12 remember seeing it." Right, that's her 13 testimony? 14 A. I completely agree. You are reading her 15 testimony correctly. 16 Q. That's pretty unequivocal. That's not I 17 think, that's I remember seeing it; right? 18 A. That's exactly what she says. 19 Q. If she is correct, "I remember seeing 20 the float valve pop up at some point in 21 time," your hypothetical falls apart; right? 22 A. Well, first of all, that's not what she 23 said, right. You said, "Do you have a 24 specific memory of the float valve popping</p>
<p style="text-align: center;">196</p> <p>1 It's not just her opinion? 2 A. No, no, no. Her testimony speaks for 3 itself. I one hundred percent agree with 4 that. 5 Q. Is a normal cook cycle consistent with 6 your hypothetical clogging? 7 A. Yeah, it could be. 8 Q. It could not be as well; right? 9 A. Well, I mean, you can have a full cook 10 cycle with clogging, end of story. Yes, you 11 can do it. 12 Q. If you have clogging, does the float 13 valve pop up? 14 A. If the clog is sufficient to hold the 15 float valve down, then no. If the clog 16 occurs when the lid is not fully closed, then 17 no. So those are the two conditions at which 18 the float will stay in the down position, but 19 I guess you could have it come up. You know, 20 I wouldn't rule that out, but sufficient 21 clogging will prevent it from rising. 22 Q. Okay. If it rises the unit is locked; 23 right? 24 A. That's true. Assuming that it can rise</p>	<p style="text-align: center;">198</p> <p>1 up," and she says, "I remember seeing it." 2 She does not say she remembers the float 3 valve popping up. You do ask down below, 4 "Okay." And she says, "I don't know exactly 5 at what point, but I do remember seeing it 6 come up." 7 So to me that just means that it 8 moved upwards some distance, right. She 9 didn't measure it. We don't know if it was 10 fully up or if it only came up a millimeter, 11 right. It may have just moved a little bit 12 and she thought, well, it's moved a little 13 bit, that's good enough. Right, we don't 14 have any measurements here. 15 And what really matters is that, 16 you know, her testimony is all approximate, 17 right. This is remembering something that 18 happened a great deal of time before the 19 testimony was given, and every one of her 20 answers is approximate. I mean, she agreed 21 with you that it was counterclockwise and we 22 know that that's not right. I think she had 23 some other thing about, you know, some volume 24 estimate, how big is a can of Coke, and she</p>

<p style="text-align: center;">199</p> <p>1 was off by like a factor of two. She wasn't 2 even close, but that's okay because they're 3 all approximate.</p> <p>4 All of her testimony is 5 approximate, and that you really have to -- 6 you have to read it. And if you're 7 suggesting that, well, I'm going to read this 8 as if it were measured exactly, then in my 9 opinion that's not how you -- you can't do it 10 that way. You can't do it. You have to read 11 it as it's all approximate, every, every 12 single answer.</p> <p>13 Q. Is it your testimony that without 14 measurements you can't recall things 15 specifically?</p> <p>16 A. It is my experience that giving specific 17 answers that are very tight and accurate is 18 very hard to do, especially when a great deal 19 of time has passed, however, giving 20 approximate answers I think is generally 21 pretty good.</p> <p>22 So, for example, if she says it 23 opened when it was -- and then fluid jetted 24 out and the lid popped up, those are all</p>	<p style="text-align: center;">201</p> <p>1 Q. And what's your testimony worth if you 2 haven't measured it?</p> <p>3 A. It's only approximate, isn't it, that's 4 exactly right. Right, this is a perfect -- 5 you're giving a perfect example, right. I'm 6 giving you an approximate answer. I don't 7 know the exact number. I'd have to go 8 measure it. That's perfect. Thanks, that's 9 perfect. I agree 100 percent.</p> <p>10 Q. Is this the only time she testified 11 about the float valve coming up, by the way, 12 do you remember?</p> <p>13 A. No, I think it might have come up more 14 than once. I don't recall, but --</p> <p>15 Q. In any of her other testimony did she 16 say something, I guess, I approximate, I 17 don't know, maybe?</p> <p>18 A. I don't think she ever used the word 19 "approximate."</p> <p>20 Q. Okay.</p> <p>21 A. I don't recall her using that.</p> <p>22 Q. Let's turn to Page 139 of her 23 deposition. I asked her, "That silver 24 button, that silver float valve, was that</p>
<p style="text-align: center;">200</p> <p>1 approximate answers. That's not saying what 2 pressure it was at. That's not saying how 3 much fluid came out. That's just saying 4 that, look, in an approximate sense this is 5 the description.</p> <p>6 Just like here in an approximate 7 sense, was it closed, yeah, it was 8 approximately closed. Right, nobody measured 9 it. Did the float valve came up? Yeah, it 10 came up, but it's an approximate sense, 11 right. It may have came up a little. It may 12 have come up a lot. And you just have to, 13 you have to read them as approximate. You 14 can't read them as exact values.</p> <p>15 Q. How far up does the float valve have to 16 go to interfere with the slider and prevent 17 opening?</p> <p>18 A. I think that total travel distance is, 19 I'm going to ballpark it at a little under a 20 centimeter, but it's in that, you know, 5 to 21 10 millimeter range.</p> <p>22 Q. You never measured it?</p> <p>23 A. I don't recall measuring it. I don't 24 recall.</p>	<p style="text-align: center;">202</p> <p>1 you" -- "was that loose? Was that sliding 2 properly the day you used the pot, the day of 3 the incident?" Her answer was, "Yes." 4 "It was working properly as far as 5 you know?" 6 "Yes." 7 "Okay. And it did pop up; right?" 8 "Yes." 9 "Well, let me ask a better 10 question. When you first put the lid on was 11 it down?" 12 "Right. And after pressure --" 13 "And did it pop up?" 14 "Yes, yes." 15 She's not saying it moved a 16 little, she said it popped up, didn't she? 17 A. Yeah, but she didn't say how far. Why 18 would you assume that it's the full distance? 19 Q. Why would you assume it's not? 20 A. I'm just saying it's approximate, and 21 remember -- 22 Q. Why do you assume it's approximate? 23 A. Let me finish my answer, please. I 24 appreciate it.</p>

<p style="text-align: center;">203</p> <p>1 MR. KRESS: Yeah. 2 BY MR. CALLAHAN: 3 Q. Okay. 4 A. You know, so remember that even if the 5 float valve did pop up and a clog occurred 6 later on which would allow it at some point 7 to be jammed -- I mean, it would have to come 8 downward at some point in order for her to 9 open it.</p> <p>10 So even if it did pop up at some 11 point, in order for her to open it against 12 the slider it needs to have gone down to a 13 lower position, period, at the time of 14 opening. And at the time of opening, in 15 order for it to release pressurized contents, 16 it has to be under pressure which means it 17 has to be clogged, end of story, end of 18 story.</p> <p>19 So whether if it did pop up all 20 the way at some point, and I mean all the way 21 and it was fully closed and it engaged the 22 interlock, then at some point it must have 23 come down and then, and then clogged in the 24 lower position. Now, do I think that's</p>	<p style="text-align: center;">205</p> <p>1 as long as there is a clog present in the 2 down position it will hold pressure. In 3 order for her description of a pressurized 4 event to occur, it had to have held pressure 5 while she was able to turn the lid which can 6 only occur in the down position. I don't 7 know exactly what bit of food got where or 8 when it got there, I don't have those 9 answers, but I can tell you that in order for 10 the pressurized event to occur and for her to 11 be able to open it and for the pressurized 12 contents to be released, it had to have been 13 clogged in the down position.</p> <p>14 Now, I've already say this, but my 15 opinion is that most likely it was in the 16 down position the entire time and her 17 recollection of how far it popped up just 18 means it didn't pop up all the way. That's 19 still my opinion, but it could have happened 20 in another way as long as a clog is present 21 at the time that she is turning the lid and 22 the float valve is in the down position.</p> <p>23 Q. You testified your opinion, what -- you 24 testified to another hypothetical here, that</p>
<p style="text-align: center;">204</p> <p>1 likely, no, and I do I think that my scenario 2 is also consistent with her testimony, yes, 3 because we don't know how far it popped up 4 and you're saying I assume it popped up all 5 the way, and I am saying you can't assume 6 that. Nobody measured it. We don't know how 7 far it popped up.</p> <p>8 Q. You said that the valve could have 9 popped up and then later went down?</p> <p>10 A. What I'm saying is that if the valve had 11 popped up at some point, the only way for 12 this event to occur as described is for the 13 valve to release downward below the slider 14 but still be clogged in order to prevent the 15 exhaust of pressure.</p> <p>16 Q. How does that occur?</p> <p>17 A. That's the only thing that's consistent. 18 Say what?</p> <p>19 Q. How does that occur?</p> <p>20 A. Well --</p> <p>21 Q. Describe the --</p> <p>22 MR. KRESS: Dennis, please let him 23 finish his answer.</p> <p>24 THE WITNESS: Yeah. So, you know,</p>	<p style="text-align: center;">206</p> <p>1 the float valve could have popped up and then 2 fallen down and then clogged in the down 3 position, isn't that what you just said?</p> <p>4 A. No, that was your hypothetical. You 5 said give me a hypothetical where this can 6 happen and that was the hypothetical I gave 7 you. My opinion is still the same as it's 8 been.</p> <p>9 Q. Can I ask my question? I'm trying to 10 get my question out.</p> <p>11 A. Okay. Well, I thought I answered your 12 question, but go ahead.</p> <p>13 Q. No, you did not.</p> <p>14 If the float valve pops up under 15 pressure, right, and that's the only way it 16 would pop up; correct?</p> <p>17 A. So you're starting your hypothetical. 18 Please continue.</p> <p>19 Q. If the float valve pops up, how does the 20 float valve drop down again until the press 21 -- before the pressure is released?</p> <p>22 A. It will not drop down before the 23 pressure is released below about 1/2 to 1 24 psi.</p>

<p>207</p> <p>1 Q. Okay. So if she sees the float valve 2 pop up and we assume it popped up fully, your 3 hypo -- the unit cannot clog; correct? 4 A. The unit cannot clog at that point. If 5 the pressure is released say to 1/2 to 1 psi 6 and the float valve popped down, but it's 7 still -- there is still a clog present, 8 meaning there is still food, the food could 9 clog the float valve, if you have any type of 10 trapped pressure inside the food itself it 11 can be released and the pressure can go back 12 up slightly, not to full operating pressure, 13 but it will come back a little bit, then you 14 can still be clogged and have a low pressure 15 event which is what I think this is. In that 16 hypothetical making the assumptions that 17 you're forcing me to make, yes. 18 Q. So it's your opinion that the float 19 valve can drop and then the pressure could 20 rise up to 2 psi after that? 21 A. So it is my opinion that in your 22 hypothetical if the float valve drops and is 23 clogged at the moment of dropping and there 24 is pressure -- and the food itself has</p>	<p>209</p> <p>1 some sort of anti-block shield? 2 A. Yeah, or a baffle, yes. 3 Q. And would that have prevented the 4 incident? 5 A. I believe it would, yes. 6 Q. Can clogging still occur with a baffle 7 in place? 8 A. It's my opinion -- well, I mean anything 9 is possible, but it's my opinion that the 10 likelihood of clogging would be much, much 11 lower. It would heavily mitigate this. You 12 could never guarantee it of course 100 13 percent, but you could definitely mitigate 14 the risk. 15 Q. And you can't quantify that mitigation, 16 can you? 17 A. I cannot, just like -- just like I've 18 said many times before, but I'll be happy to 19 say it again. 20 Q. And if the unit could clog with a 21 protective screen in place, is it still 22 defective? 23 A. I think if the effort had been made and 24 demonstrated that the addition of that screen</p>
<p>208</p> <p>1 trapped vapor, which can occur. I'm not 2 saying it has to occur, in fact I don't think 3 it is very likely, but you -- you know, 4 Exponent has done a lot of work that has 5 demonstrated you can have pressure trapped in 6 the food, then that pressure can be released 7 into the vapor space and increase the vapor 8 space pressure to a higher than the value of 9 the 1/2 to 1. Now, exactly what it is, you 10 know, I can't tell you. I didn't measure 11 that. 12 But I'm just telling you that in 13 your hypothetical, which I believe is not a 14 very likely hypothetical, you can still get 15 the pressure to rise after it drops, but I 16 think that we're talking about sort of an 17 extremely unlikely hypothetical. 18 Q. Well, not that unlikely. She says 19 that's what happened? 20 A. That's not what she said what happened. 21 That's your assumption of her -- of the 22 interpretation of her words. 23 Q. It's your opinion that the float valve 24 should have been protected by a screen or</p>	<p>210</p> <p>1 mitigates the likelihood of a clog, then I 2 think you've done your job. And Instant Pot 3 has used screens over the float, over the 4 float valve, so we know they think it's safe, 5 right. They've sold products with that and 6 other companies have sold the full baffles 7 which I think are even better. 8 Q. I asked you it before, but I'm going to 9 ask you again here. You don't recall writing 10 a report stating that another Instant Pot is 11 defective because it lacks this float valve 12 protector; correct? 13 MR. KRESS: Objection; asked and 14 answered. 15 THE WITNESS: Yeah, that is still 16 -- that is still true. That's still true, 17 yes. 18 BY MR. CALLAHAN: 19 Q. Well, would you agree that you have to 20 examine every incident to determine the cause 21 of the occurrence? 22 A. I have no idea what that question is. 23 About every incident that ever occurred ever? 24 I don't know. What are you talking about?</p>

<p style="text-align: center;">211</p> <p>1 Q. No, no, no. I'm sorry. I'll try to 2 restate a better question. 3 It's not your opinion that every 4 incident involving an Instant Pot is caused 5 by a lack of a valve protector; correct? 6 A. No. In fact, I've had Instant Pot cases 7 where the lid interlock was not functioning 8 adequately. You could easily turn it by 9 hand. 10 Q. Okay. You'd agree that each incident is 11 different; right? 12 A. I would say that each incident will have 13 its own uniqueness, but a lot of them have a 14 lot of overlap. 15 Q. All right. Well, one thing you said in 16 this case was you had to look at the 17 description of the incident to figure out 18 what happened; right? That's a key part of 19 your case? 20 A. That's true. 21 Q. In your report you suggest that there 22 was prior testing that demonstrates that the 23 clogging of the float valve was possible; 24 right?</p>	<p style="text-align: center;">213</p> <p>1 Q. When did you do that test with the 2 potatoes? 3 A. Oh, I don't know. It was years ago. 4 Q. You don't recall the model? 5 A. Nope. 6 Q. You've used the word "foreseeable." 7 What does that mean? 8 A. To me that means that the designer, 9 distributor, manufacturer, whoever is in that 10 chain would foresee that an operator would 11 perform a function in a certain way. 12 Q. You used foresee to define 13 foreseeability. Can you give me a better 14 definition? 15 A. Yeah. It means the, that that person 16 would -- should anticipate that it would be a 17 potential operation that a user would 18 perform. 19 Q. Is anything that's possible also 20 foreseeable? 21 A. I guess that's -- I guess you can never 22 answer 100 percent on that, but, you know, 23 for example, there are design features in 24 this like, for example, the slider which is</p>
<p style="text-align: center;">212</p> <p>1 A. Yeah. I mean, we've clogged float 2 valves for other cases, not for this, just, 3 you know, as part of the testing we did, but 4 yeah, I know it can happen. 5 Q. Okay. You didn't do it in the Durham 6 case? 7 A. I did not do it specifically for this 8 case, that is correct. 9 Q. Do you recall the units you did test to 10 demonstrate? 11 A. No, I don't recall even the manufacturer 12 on those. 13 Q. And I called it a test. It's really a 14 demonstration that it's possible; right? 15 A. I mean, it is. It is a test, but it is 16 a demonstration. 17 Q. Okay. And do you recall exactly how you 18 made that demonstration? What did you do? 19 A. You know, we've done it multiple times, 20 but the one that comes to mind I think we 21 used potatoes. I think that was the food 22 that we used, but I know we've done it more 23 than once, but the one that I recall 24 specifically I think it was potatoes.</p>	<p style="text-align: center;">214</p> <p>1 meant to prevent someone from opening it 2 under pressure, right. That's a foreseeable 3 misuse, right? They only had that slider 4 because they foresee that a user will not -- 5 will do something that's contrary to the 6 instruction, and that's a good example of 7 what is foreseeable. And I think that a lot 8 of these pressure cookers have very good 9 descriptions of what foods not to cook, what 10 foods to be concerned with, and clearly 11 because they see the potential for clogging. 12 So, yeah, that's how I would say foreseeable 13 for this. 14 Q. Is it your opinion that it's a design 15 feature -- well, strike that. Is it your 16 opinion that a warning in the instruction 17 manual indicates that there is a foreseeable 18 misuse possible? 19 A. I suppose so. I mean, a warning is sort 20 of like that last ditch, that last ditch risk 21 mitigation device that you can use, but yeah, 22 I can't -- I can't see any other reason to 23 put the warning on there. 24 Q. So in your world, in your opinion the</p>

<p style="text-align: center;">215</p> <p>1 product shouldn't have warnings, it all 2 should be designed in a way that warnings are 3 unnecessary? 4 A. No. In my world you'd only use warnings 5 when design features cannot be implemented. 6 If you'd like to have warnings in addition to 7 design features, that's totally fine with me. 8 Q. The testing you did with the potato or 9 the demonstration you did with the potato, is 10 your opinion based on that? 11 A. I mean, that's just one of the 12 experiences that I had that tells me that you 13 can achieve clogging, but the physics also 14 tells me that you can achieve clogging 15 without any testing. 16 Q. So if the testing didn't exist, would 17 you still be able to support your opinion? 18 A. Yeah. The physics clearly dictates that 19 clogging is possible. 20 Q. All right. Let's -- the test you did, 21 can you describe it? 22 A. No, I don't recall the details of it. I 23 believe we were using that as our food 24 product and we achieved a clog, but I</p>	<p style="text-align: center;">217</p> <p>1 A. On that demonstration, yes. 2 Q. All right. Is there any other 3 demonstration you remember? 4 A. I don't know. We've done so many of 5 those I couldn't tell you. 6 Q. You can't remember any other one? 7 A. Well, there is a leafy vegetable one. I 8 think that was another one, too. I'm sure 9 there have been others, but those are the 10 ones that come to mind. 11 Q. And every one of them was a manual 12 clogging of the valve to clog it; correct? 13 A. For the demonstrations of clogging, they 14 were manually applied. 15 Q. I mean, that result didn't really 16 surprise you, did it? 17 A. I guess not, because if you can present 18 food in any form up to the valve then you 19 would expect a potential for clogging. So, 20 yeah, of course, I would expect that. 21 Q. Well, my point is if you stuffed the 22 valve with the potato, it would limit the 23 ability of vapor to pass through that 24 orifice; correct?</p>
<p style="text-align: center;">216</p> <p>1 couldn't tell you exactly how the clog 2 occurred or how long it took or anything like 3 that. 4 Q. Didn't you stuff a potato into the valve 5 to clog it? 6 A. We did testing where we, where we 7 presented the food. I don't know if we 8 stuffed it into the valve. I don't think we 9 did that, but we did do testing where we 10 presented the food on the outside of it. 11 Yeah, that was some of the testing. 12 Q. You manually clogged the valve; right? 13 A. We have done that, yeah. Oh, yeah. 14 Yeah, I think we even manually clogged it 15 with other things, too, like maybe like leafy 16 vegetable stuff, too, as well. 17 Q. Is that foreseeable? 18 A. That someone would manually clog it? 19 Q. Yes. 20 A. No, I don't think that they would 21 foresee someone doing that. 22 Q. Okay. So the purpose of this 23 demonstration was to demonstrate that a clog 24 was possible?</p>	<p style="text-align: center;">218</p> <p>1 A. Yeah, but we didn't always stuff. 2 Sometimes you could just put the food around 3 it and have -- and have it clog that way. 4 You didn't have to shove it inside the 5 cylinder. 6 Q. You don't remember the models you used? 7 A. Nope. 8 Q. Is the shape of the valve important for 9 your demonstration, for your testing? 10 A. Not really. None of these valves are 11 designed to be clog proof. I don't think you 12 can design a valve to be clog proof. That's 13 why Instant Pot and others have used shields 14 to protect the valves. 15 MR. CALLAHAN: This is going to be 16 Exhibit 20. It's Image 4992 is the name of 17 the file. 18 (Exhibit <u>Rondinone-20</u> was marked 19 for identification.) 20 BY MR. CALLAHAN: 21 Q. Do you know what that is in the picture? 22 A. That looks like a float valve. 23 Q. Do you know from what product? 24 A. No, I can't identify it by sight.</p>

<p style="text-align: center;">219</p> <p>1 Q. Do you know if it relates to -- is this 2 the valve you tested with the demonstration? 3 A. I don't know. 4 Q. The food clogging demonstration? 5 A. I don't know. 6 MR. KRESS: Dennis, where is that 7 from just for my benefit? 8 MR. CALLAHAN: I'm going to have 9 to get back to you on that. I forget which 10 picture is which. 11 MR. KRESS: Is this from this 12 case? 13 MR. CALLAHAN: No. 14 MR. KRESS: Are we going to stay 15 in the bounds of this case or are we doing a 16 comprehensive Instant Pot deposition today? 17 MR. CALLAHAN: I'm trying to ask 18 him if he can recognize the valve he tested 19 in a prior case. You haven't provided the 20 test. I'm presenting him with some valves 21 that may or may not be the valve he tested. 22 MR. KRESS: I just don't want to 23 get into a guessing game or a quiz. I want 24 to -- he can give his testimony related to</p>	<p style="text-align: center;">221</p> <p>1 This might not even be an Instant Pot for all 2 I know. 3 MR. CALLAHAN: I'll guarantee you 4 it's not. He said he never tested an Instant 5 Pot in his demonstration. He tested other 6 models. 7 MR. KRESS: So how is that 8 relevant to what we're talking about right 9 now? 10 MR. CALLAHAN: Because he is 11 justifying his opinion based on his test of 12 another model. 13 MR. KRESS: Based on his 14 collective experience, but again this is 15 becoming a quiz game. 16 MR. CALLAHAN: I'm entitled to 17 explore that. 18 MR. KRESS: You're entitled to 19 explore it within, within proper notice of 20 what you're producing here. I mean, if you 21 want to give him a representation, hey, did 22 you test this model of pressure cooker, fine, 23 but I'm not going to continue with a guessing 24 game.</p>
<p style="text-align: center;">220</p> <p>1 his opinions in this case, but if we're doing 2 a comprehensive Instant Pot consolidation, 3 that's something different entirely. 4 MR. CALLAHAN: I, I don't even 5 know how to answer that. I don't think 6 that's what I'm doing. 7 MR. KRESS: Okay. 8 MR. CALLAHAN: He said he tested 9 another model product. I'm presenting him 10 with the valves from other models to see if 11 he could recognize them. 12 MR. KRESS: And have I been 13 provided those pictures? I mean, I need some 14 proper identification on what this is. It's 15 sounding like a guessing game at this point. 16 MR. CALLAHAN: Well, I think the 17 answer is he couldn't recognize the other 18 picture. I'm just going to pull another one 19 and see if he can recognize this one. 20 MR. KRESS: I'm going to object to 21 relevance. 22 MR. CALLAHAN: Okay. 23 MR. KRESS: And lack of 24 foundation. I don't even know what this is.</p>	<p style="text-align: center;">222</p> <p>1 MR. CALLAHAN: I'm asking if he 2 recognizes the valves from the other 3 products. 4 MR. KRESS: All right. Keep 5 going. I'll make my objections as necessary. 6 MR. CALLAHAN: This is Exhibit 21. 7 It's Photo P1120134. 8 (Exhibit <u>Rondinone-21</u> was marked 9 for identification.) 10 BY MR. CALLAHAN: 11 Q. Can you recognize this, sir? 12 MR. KRESS: Object to relevance. 13 Go ahead. 14 THE WITNESS: I mean, it looks -- 15 it looks like it's potentially a float valve. 16 BY MR. CALLAHAN: 17 Q. Do you know what, from what product? 18 A. Nope. 19 Q. Not from the Durham product, though, 20 right? 21 A. Okay. Are you seriously asking me if 22 this is taken from the subject that we've 23 looked at like four photos from that looks 24 completely different? Is that -- is that</p>

<p style="text-align: center;">223</p> <p>1 your actual question?</p> <p>2 Q. I'm just trying to address</p> <p>3 Mr. Kress's -- I agree. That's not the</p> <p>4 Durham float valve.</p> <p>5 A. That's not what you -- that's not how</p> <p>6 you asked, but the answer is of course it's</p> <p>7 not the Durham float valve. It looks nothing</p> <p>8 like it.</p> <p>9 Q. Okay.</p> <p>10 A. Right, but it does -- it is -- it does</p> <p>11 appear to have a cylinder. It does appear to</p> <p>12 have a seal and it does appear that it would</p> <p>13 function for internal pressure, which means</p> <p>14 it would be functionally identical, but I</p> <p>15 can't tell you where it came from. I don't</p> <p>16 even know the manufacturer of that one.</p> <p>17 Q. Okay. Can you tell me -- can you tell</p> <p>18 me if this is in the model product you used</p> <p>19 for your potato demonstration?</p> <p>20 A. I don't know.</p> <p>21 Q. Okay. I showed you this picture before.</p> <p>22 This is Float Valve B. I think it was</p> <p>23 marked. Oh, it was marked as No. 17.</p> <p>24 What was Ms. Durham cooking?</p>	<p style="text-align: center;">225</p> <p>1 bottle of Coke is six ounces, so she could be</p> <p>2 off by a factor of two easily.</p> <p>3 Q. Do we have better evidence of how deep</p> <p>4 it was?</p> <p>5 A. No, nobody took measurements as far as I</p> <p>6 know.</p> <p>7 Q. All right. So are you going to accept</p> <p>8 her testimony in this or not?</p> <p>9 A. You know, I'm going to answer this the</p> <p>10 same way I answered the last whatever, 10 or</p> <p>11 20 questions where you asked about her</p> <p>12 comments being approximate. All of her</p> <p>13 comments are approximate. My opinion is her</p> <p>14 testimony is her best recollection, but it</p> <p>15 has to be taken as approximate, end of story.</p> <p>16 Q. Okay. So the surface of the soup is</p> <p>17 what, five to six inches away from the float</p> <p>18 valve approximately?</p> <p>19 A. Possibly, but she -- well, I mean, we</p> <p>20 don't know. We don't know. Nobody measured</p> <p>21 that. Maybe it was three inches, maybe it</p> <p>22 was six inches, maybe it was two inches. She</p> <p>23 didn't measure it. We don't know what the</p> <p>24 measurement is.</p>
<p style="text-align: center;">224</p> <p>1 A. You know, you'd have to read her</p> <p>2 deposition to get the exact contents, but I</p> <p>3 believe it was chicken and vegetables and</p> <p>4 water and maybe spices.</p> <p>5 Q. No potatoes though; right?</p> <p>6 A. Not that I'm aware of.</p> <p>7 Q. All right. How deep was the contents in</p> <p>8 the bottom of the pot?</p> <p>9 A. I don't think she measured it, but I</p> <p>10 think she said it was a few inches or</p> <p>11 something to that effect.</p> <p>12 Q. Okay. How far from the top of the</p> <p>13 contents to the float valve shown in the</p> <p>14 exhibit?</p> <p>15 A. I don't think that was ever measured,</p> <p>16 but, you know, we're probably talking about</p> <p>17 based on her description four to six inches</p> <p>18 maybe. You know, it's hard to say because</p> <p>19 she didn't give a number, not a specific</p> <p>20 number.</p> <p>21 Q. Well, she said the contents were one or</p> <p>22 two inches deep; right?</p> <p>23 A. Yeah, but she didn't measure it, and she</p> <p>24 said also said that a 12 can -- a 12-ounce</p>	<p style="text-align: center;">226</p> <p>1 Q. When you were examining the pot, did you</p> <p>2 measure the width of the float valve, the rod</p> <p>3 in the float valve?</p> <p>4 A. I don't recall if we measured that or</p> <p>5 not. We possibly did. It's like a quarter</p> <p>6 inch give or take, but I don't, I don't</p> <p>7 recall the measurements if we did it.</p> <p>8 Q. Do you know how much space there is</p> <p>9 between the float valve and the orifice it</p> <p>10 passes through?</p> <p>11 A. That's also in the neighborhood of a</p> <p>12 quarter inch give or take, you know,</p> <p>13 ballpark. No, I don't recall the</p> <p>14 measurement.</p> <p>15 Q. The gap between the shaft and the</p> <p>16 orifice is how far?</p> <p>17 A. I think that's a ballpark quarter inch,</p> <p>18 but like I said, I'd have to -- I can look</p> <p>19 through my -- if you'd like, I can look</p> <p>20 through my photos if you'd like. Is this a</p> <p>21 really important that you need a closer</p> <p>22 number if I got it? It sounds like it is.</p> <p>23 Why don't you give me a few moments and I'll</p> <p>24 sit here silently and look through my photos.</p>

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1 Q. Okay.
 2 A. Or stand here I should say.
 3 (Pause.)
 4 MR. KRESS: While we're waiting,
 5 so just to revisit this, Dennis, we're
 6 probably getting close to four hours,
 7 correct?
 8 MR. CALLAHAN: Yeah, that's
 9 probably fair.
 10 MR. KRESS: All right. Are you
 11 going to be done before four hours?
 12 MR. CALLAHAN: No.
 13 THE WITNESS: Okay. I think I'm
 14 ready to answer the question.
 15 BY MR. CALLAHAN:
 16 Q. Okay.
 17 A. I would keep my ballpark at about a
 18 quarter inch based upon photographs that show
 19 measurements of other things, but we did not
 20 specifically photograph the measurement of
 21 that gap.
 22 Q. Okay. This is what I was trying to ask.
 23 I'm just going to show you a picture. I'm
 24 trying to -- I'm trying to ask you the

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1 you know if they had a bypass hole?
 2 A. I don't know.
 3 Q. Do you know if it had any -- do you know
 4 the size of those shafts or the size of the
 5 orifice the shafts pass through?
 6 A. I don't recall.
 7 Q. Did you measure the cap?
 8 A. I don't think we put a ruler on the cap
 9 for this particular one.
 10 Q. All right. The product, the food
 11 particles that in your opinion can cause this
 12 clogging, how big are they?
 13 A. It depends on how many you have. The
 14 bigger the particles the fewer you need. I
 15 wouldn't put a number on it.
 16 Q. You can't give me an estimate?
 17 A. No.
 18 Q. How do the particles get from the
 19 surface of the liquid to the valve?
 20 A. Well, if the water is actively boiling
 21 then it can be entrained in the bubbling up.
 22 It could be entrained in the vapor moving
 23 through and around the vapor space. I guess
 24 conceivably you could shake the unit. I

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1 difference between the space between the
 2 float valve and the size, the size of the
 3 orifice. Does that make sense from the
 4 drawing?
 5 A. You mean what the annular size is, the
 6 annular gap?
 7 Q. Yeah.
 8 A. Between the cylinder of the float valve
 9 and the outer assembly of the float valve?
 10 Q. Correct.
 11 A. Oh, yeah, we definitely didn't measure
 12 that, but that's got to be like a millimeter
 13 or something. That's pretty small.
 14 Q. Okay. That's what I was asking. That's
 15 why I knew it was not a quarter inch.
 16 A. I see. You're right. That is much,
 17 much smaller than a quarter inch.
 18 Q. All right. Did you measure the bypass
 19 hole in the valve?
 20 A. I don't think we measured this one, but
 21 that's probably on the order of a few
 22 millimeters. That's fairly small.
 23 Q. In the units, the units you used for
 24 your demonstration, those other models, do

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1 think more likely it's just from the
 2 bubbling.
 3 Q. So we're not talking big pieces of food;
 4 right?
 5 A. Well, I mean, not like inch across
 6 pieces. Yeah, I mean, I guess you could
 7 shake it up and get those pieces up there,
 8 but I'm thinking much smaller than that.
 9 Q. You're thinking particles that could be
 10 carried in steam?
 11 A. Or, no, they could be blown up by the
 12 bubbling. If you've ever boiled something on
 13 a stovetop without a cover, you can -- you
 14 can -- you can see that the contents can be
 15 thrown like a foot. I've seen that at least.
 16 So, yeah, I'm talking about the bubbling, the
 17 bubbling effect where you get a bursting of
 18 the vapor from the liquid to the vapor phase.
 19 Q. Again, we're talking small particles?
 20 A. I wouldn't put a number on it. I mean,
 21 I guess I did. I don't think we're talking
 22 an inch across, but no, I wouldn't put a
 23 number on it.
 24 Q. So all you can tell me is less than an

<p style="text-align: center;">231</p> <p>1 inch?</p> <p>2 A. Yep.</p> <p>3 Q. In the photograph that's shown as Float</p> <p>4 Valve B, this is the protector over the</p> <p>5 pressure relief valve; correct?</p> <p>6 A. That's correct.</p> <p>7 Q. You'd agree the pressure relief valve is</p> <p>8 always open even when the unit is</p> <p>9 pressurized; right?</p> <p>10 A. I mean, it depends on how you set the</p> <p>11 little weight thing at the top.</p> <p>12 Q. Okay. How big are the gaps in that</p> <p>13 protective cage over the relief valve?</p> <p>14 A. Oh, I think they're just on the order of</p> <p>15 like -- I don't know. I don't think we</p> <p>16 measured that in this case, but they're just</p> <p>17 on the order of a millimeter or two. They're</p> <p>18 pretty small.</p> <p>19 Q. Okay.</p> <p>20 A. But they're pretty long. They're like</p> <p>21 half an inch long or something.</p> <p>22 Q. The particles of food that you said</p> <p>23 could be thrust up into the valve, are they</p> <p>24 bigger or smaller than the orifice on the</p>	<p style="text-align: center;">233</p> <p>1 of clogging and you intended on selling tens</p> <p>2 or hundreds or thousands of units, then you</p> <p>3 better have a very, very large statistical</p> <p>4 test base in order to ensure that the risk</p> <p>5 doesn't need to be mitigated, but I wouldn't</p> <p>6 put a number on it.</p> <p>7 I would have to know exactly how</p> <p>8 many units they plan to sell and what they,</p> <p>9 you know, what they recommend cooking in it</p> <p>10 and all the different levels, and then you'd</p> <p>11 have to build out a perimetric study for it.</p> <p>12 I mean, you'd just have to -- you'd have to</p> <p>13 do the work to set up the study.</p> <p>14 Q. Can you describe that study? That's my</p> <p>15 question.</p> <p>16 A. Well, no, because I haven't been hired</p> <p>17 to build that study, but I mean you'd have to</p> <p>18 look at all the potential foods. You'd have</p> <p>19 to look at the potential fill heights. You'd</p> <p>20 have to look at the potential cooking</p> <p>21 conditions. You know, you'd have to look at</p> <p>22 whether or not it's been fully cleaned from</p> <p>23 the previous round. You'd have to look at</p> <p>24 all of that. Then you'd have to look at how</p>
<p style="text-align: center;">232</p> <p>1 protective cage?</p> <p>2 A. I don't have a number for that.</p> <p>3 Q. May be bigger, may be smaller?</p> <p>4 A. Yeah.</p> <p>5 Q. You don't know?</p> <p>6 A. Yeah, I don't have a number.</p> <p>7 Q. You've test -- you've suggested that the</p> <p>8 manufacturer should, if the manufacturer</p> <p>9 wants to disprove your theory it should</p> <p>10 conduct a test to demonstrate this isn't</p> <p>11 possible under real world conditions. Do you</p> <p>12 remember that testimony?</p> <p>13 A. No. I believe what I said was that if</p> <p>14 you want to statistically say that something</p> <p>15 can't happen or is not likely to happen, then</p> <p>16 you need to do a statistical analysis. If</p> <p>17 you want to say that something is possible,</p> <p>18 then you don't need to do the statistical</p> <p>19 analysis because you're not relying on</p> <p>20 statistics.</p> <p>21 Q. Okay. How would you do a statistical</p> <p>22 analysis?</p> <p>23 A. Well, I mean if you wanted to</p> <p>24 demonstrate the likelihood or the possibility</p>	<p style="text-align: center;">234</p> <p>1 many units you intend to sell and you have to</p> <p>2 line all of that up and then build a matrix,</p> <p>3 a test matrix off of that, right. It's a lot</p> <p>4 of work. You don't just sit down and say,</p> <p>5 well, we'll test ten and we're done. That's</p> <p>6 not how you do it.</p> <p>7 Q. I'm asking you how you do it. That's my</p> <p>8 question, very simple.</p> <p>9 A. I've given you the answer. I've not</p> <p>10 been hired to build that study and to build</p> <p>11 that study is not something I can answer in</p> <p>12 one minute in a deposition. I told you the</p> <p>13 things, the parameters that you look at, and</p> <p>14 then after laying those out you would</p> <p>15 determine how to approach the study.</p> <p>16 Q. Would you be capable of doing such a</p> <p>17 study?</p> <p>18 A. Yeah, if I was hired to do so.</p> <p>19 Q. Would -- in your hypothetical clogging</p> <p>20 scenario, would there be any physical</p> <p>21 evidence left to indicate that the valve had</p> <p>22 clogged after the event was over?</p> <p>23 A. Not if it had been cleaned, no.</p> <p>24 Q. Define clean.</p>

<p style="text-align: center;">235</p> <p>1 A. I mean, even, even just the introduction 2 of pressurized water from a tap would 3 probably be enough to clear it.</p> <p>4 Q. What was the testimony about the unit 5 being cleaned, do you remember?</p> <p>6 A. I don't know that anybody knows whether 7 or not or how it was cleaned, but clearly it 8 has been cleaned to some extent. I mean, 9 look at these pictures. That's a clean 10 metallic surface. I don't think -- I've seen 11 them where they're not clean and they're 12 gross. You know, the mold is growing on all 13 the surfaces pretty much. That's not what we 14 have here. This has been cleaned.</p> <p>15 Q. So I guess to clarify, you -- there is 16 no physical evidence that you found 17 indicating residue from a, from a valve clog?</p> <p>18 A. That's true.</p> <p>19 Q. Can you tell me if -- well, did you look 20 inside the relief valve?</p> <p>21 A. I think only, only from outside, but you 22 can see it's been cleaned. I mean, it's 23 clear that it's been cleaned.</p> <p>24 Q. Again, the relief valve behind this</p>	<p style="text-align: center;">237</p> <p>1 cleaned the inside of that float valve, the 2 center bore?</p> <p>3 A. That I don't know.</p> <p>4 Q. Did you check to see if there was any 5 residue inside that center bore?</p> <p>6 A. Only looking through the holes from the 7 outside. I don't think we look -- we took it 8 apart to look on the inside.</p> <p>9 Q. All right. And this, this view that's 10 up on the screen, Float Valve B, looks pretty 11 clean, those holes; correct?</p> <p>12 A. It does look like it's been cleaned, 13 that's correct.</p> <p>14 Q. You don't see any residue at all through 15 those holes; right?</p> <p>16 A. I don't, no.</p> <p>17 Q. All right. But there is no testimony 18 anybody cleaned inside that float valve; 19 right?</p> <p>20 A. I don't know what the testimony is 21 regarding the cleaning.</p> <p>22 Q. Okay. Would you expect that a user 23 after an incident would take the valve apart, 24 clean the inside and put it back together?</p>
<p style="text-align: center;">236</p> <p>1 cage, did --</p> <p>2 A. Oh, I'm sorry, I misinterpreted. I 3 thought you meant float valve. I don't 4 recall if we took off the cage or not on this 5 one. I just don't recall.</p> <p>6 Q. Is there any testimony that the user or 7 someone else took the cage off and cleaned 8 underneath the cage?</p> <p>9 A. I don't know if they did or not.</p> <p>10 Q. Did -- I think you testified you did not 11 remove the float valve during your 12 examination?</p> <p>13 A. Yeah, I don't recall the float valve 14 being removed.</p> <p>15 Q. So you didn't take off the cap on the 16 end of the float valve?</p> <p>17 A. I just, I don't -- I don't recall doing 18 that at all for this case.</p> <p>19 Q. Why not?</p> <p>20 A. I didn't think that it was necessary.</p> <p>21 It's clear that it's been cleaned and I 22 didn't see that it was necessary to take 23 apart.</p> <p>24 Q. Was there any testimony that someone</p>	<p style="text-align: center;">238</p> <p>1 A. That I don't know. I don't know. I 2 would -- I mean, it's clear they cleaned it 3 to some extent. I don't know to what extent 4 they did so.</p> <p>5 Q. All right. I thought, I thought you 6 testified earlier it was not foreseeable that 7 a user would pull the float valve on a 8 regular basis?</p> <p>9 A. No. I just said that I would probably 10 do it to clean it, but I couldn't speak to 11 everybody. I couldn't say that everybody 12 would do that or even think of doing it.</p> <p>13 Q. So you can't tell me if there is any 14 evidence of food debris inside that cylinder, 15 the float valve cylinder?</p> <p>16 A. No, but the fact that it's been cleaned 17 at all means that if -- whether you find -- 18 if you don't find residue, it just means you 19 don't find residue. It doesn't mean there 20 wasn't clogging. And remember the clogging 21 doesn't have to go all the way in the 22 cylinder either. It can be along the outside 23 as well. So I'm just saying that it clearly 24 has been cleaned to some extent, and the fact</p>

<p style="text-align: center;">239</p> <p>1 that there is no residue really means that 2 it's been cleaned. So I don't know how else 3 to answer that.</p> <p>4 Q. Do you have an opinion as to where the 5 clogging occurred?</p> <p>6 A. No, I have no specifics on the clogging.</p> <p>7 Q. Is it your opinion that this food debris 8 completely sealed the valve or was it like 9 partially blocked?</p> <p>10 A. It had to -- it had to have been at 11 least -- it had to have been a sufficient 12 seal to build in my opinion to operating 13 pressure. Now, whether it was a perfect seal 14 I couldn't tell you.</p> <p>15 Q. So what pressure did it achieve, do you 16 know?</p> <p>17 A. I did not measure that pressure. I 18 don't think anybody did.</p> <p>19 Q. And you don't have an opinion about it?</p> <p>20 A. I mean, if I had to ballpark it I think 21 it's about a dozen psi, but on the day of the 22 event I have no idea.</p> <p>23 Q. And you have an opinion -- do you have 24 an opinion about the pressure when she opened</p>	<p style="text-align: center;">241</p> <p>1 2 psi?</p> <p>2 A. I don't have a number for that, but it's 3 much easier than 4 psi.</p> <p>4 Q. You can't give me an estimate?</p> <p>5 A. No, because we just did those by hand.</p> <p>6 We were doing hand openings which means we 7 can't use a tool. You can't measure it.</p> <p>8 Q. Well, you could have used a tool, you 9 just chose not to.</p> <p>10 A. Well, no. If you use a tool then you're 11 not demonstrating it can be opened by hand. 12 That defeats the purpose of the test.</p> <p>13 Q. You could quantify measurement. You 14 could do two tests; right?</p> <p>15 A. Well, I guess you could. I could do 16 twice the amount of work, but the purpose of 17 the test was to demonstrate that it could be 18 opened by hand without a tool.</p> <p>19 Q. But because you didn't measure it you're 20 only estimating?</p> <p>21 A. That is always true. That is absolutely 22 right.</p> <p>23 Q. Do you have an opinion as to how long or 24 how fast the pressure will dissipate</p>
<p style="text-align: center;">240</p> <p>1 the unit in your hypothetical?</p> <p>2 A. Yeah, I've already answered that. I 3 think it's going to be in the neighborhood of 4 2 psi. I don't think it's going to be much 5 higher than that based upon her description. 6 It might be a tiny bit lower. I don't think 7 it's below 1 psi.</p> <p>8 Q. What's your scientific basis for 9 concluding 2 psi?</p> <p>10 A. Because we've opened a number of 11 electronic pressure cookers that are about 12 this size and just very similar to this 13 geometry, and at 4 psi that's where you can 14 open it, but you generally get a quite 15 forceful expulsion of contents.</p> <p>16 At about 1 and a half psi the 17 expulsion of contents has dropped to very 18 little, so 2 psi in my opinion is probably as 19 high as it could have been to get just a 20 small expulsion of contents and also to make 21 it easier to open, because at 4 psi it can be 22 opened by hand but it takes quite a bit more 23 force.</p> <p>24 Q. How much force is required to open it at</p>	<p style="text-align: center;">242</p> <p>1 following your hypothetical blockage?</p> <p>2 A. How do you mean, like at the end of the 3 cooking cycle or --</p> <p>4 Q. Yes. I'm sorry, at the end of the cook 5 cycle.</p> <p>6 A. Oh, that would depend on the thermal 7 mass of the food. You know, if the thing is 8 all the way full I think these things take an 9 hour to naturally relieve the pressure. If 10 it's just a tiny bit full it could be ten 11 minutes give or take. It really just depends 12 on what the thermal mass of the food is.</p> <p>13 Q. You're referring to under normal 14 cooking, right. I'm asking you specifically 15 in your scenario with the valve blocked, how 16 long would it take?</p> <p>17 A. Well, it would be the same because under 18 normal cooking the valve is closed which is 19 the same function as having it clogged, 20 right. Both are holding pressure.</p> <p>21 Q. And I guess that assumes it's a fully -- 22 it's fully clogged?</p> <p>23 A. Well, it's clogged sufficient to hold 24 pressure. It could be that if it has a slow</p>

<p style="text-align: center;">243</p> <p>1 leak then it would relieve pressure sooner 2 and it would just, it would drop pressure. 3 You know, maybe instead of taking an hour it 4 might only take 20, 30 minutes. Instead of 5 taking 10, 15 minutes, it might only take 6 five, but all of those are assumptions that 7 we don't have an answer to. Those are -- 8 those are just assumptions.</p> <p>9 Q. Turning back to your report which was 10 Exhibit 1, in the fourth paragraph of your 11 conclusions you say, "The injury and event 12 description are consistent with contents 13 being forcefully sprayed out of the pressure 14 cooker under pressure and are not consistent 15 with the contents simply being spilled under 16 gravity."</p> <p>17 Can you explain that statement, 18 please?</p> <p>19 A. Sure. When you take into account the 20 event description and the injuries together, 21 meaning the whole lump, what you are 22 presented with is a description that the 23 contents were released under pressure. It's 24 kind of sprayed as a hor -- it's explained as</p>	<p style="text-align: center;">245</p> <p>1 Q. Yeah. 2 A. Yeah, I think she said she was able to 3 turn it open and then after initiating the 4 turn the lid popped and ejected the contents, 5 but not much in terms of contents.</p> <p>6 Q. Did she measure anything in respect to 7 the lid open?</p> <p>8 A. Oh, no, I don't think she did.</p> <p>9 Q. Okay. So her -- that's just her 10 impression of what happened; right?</p> <p>11 A. You are absolutely right. Right, she 12 has no idea what force she applied. She has 13 no idea how much of the contents came out. 14 All we can get from her testimony like I said 15 before are approximations, right.</p> <p>16 She does describe the lid being 17 forcefully popped off, but that's only 18 approximation. She's not saying how far, 19 which way, what was the pressure, none of 20 that, how long did it take, none of that. 21 It's just an approximation.</p> <p>22 Same thing for the ejection of the 23 contents. You know, she didn't say how much 24 came out. She did say that no food came out,</p>
<p style="text-align: center;">244</p> <p>1 like a horizontal spray I think and the 2 ejection or popping off of the lid, those are 3 all things that describe a unit that's under 4 pressure.</p> <p>5 And all of those things together, 6 the descriptions of the injury, the 7 descriptions of the event, how the contents 8 are described as leaving the cooker, those 9 are all consistent with a cooker under 10 pressure.</p> <p>11 And I've already just told you 12 that we're talking about low pressure rather 13 than something just spilling out due to 14 gravity, right, because you can't get the 15 horizontal spray due to, you know, gravity. 16 You can't get the lid popping off due to 17 gravity. Those are -- that's why when you 18 take it as a whole, what we're talking about 19 is a pressurized event and not a gravity 20 event.</p> <p>21 Q. Do you remember what Ms. Durham said 22 about the lid opening?</p> <p>23 A. I'm sorry, what? About when her opening 24 of the lid you mean?</p>	<p style="text-align: center;">246</p> <p>1 only liquid, so you can presume that we're 2 not talking about a huge amount.</p> <p>3 Also she didn't really describe a 4 lot being on the counter or the floor, only 5 that it got on her body and a little bit I 6 think on her son, but yeah, those are all 7 approximations. That's exactly how you have 8 to read it. You have to read it as 9 approximation.</p> <p>10 Q. Did she testify she saw liquid coming 11 out of the, out of the unit?</p> <p>12 A. I don't know if she said she saw the 13 liquid, but she described it as only being 14 liquid and not food. I don't know what she 15 saw.</p> <p>16 Q. Well, you testified a few minutes ago 17 that one of the indicators that this was a 18 pressure release was the contents were 19 sprayed horizontally?</p> <p>20 A. Yeah, I think that was from her son, the 21 other witness.</p> <p>22 Q. Can you explain how her son -- well, 23 where was her son standing at the time of the 24 incident?</p>

<p style="text-align: center;">247</p> <p>1 A. You know, I think there were two 2 different descriptions. I think he said he 3 was between his mom and the pressure cooker 4 and I think she said he was hugging her, so 5 he would be adjacent to her, but not 6 necessarily between the pressure cooker and 7 her. So I don't -- I don't know where he was 8 exactly. I couldn't give you that.</p> <p>9 Q. But he was not sprayed with the 10 contents, was he?</p> <p>11 A. I think some got onto his clothing, but 12 I don't think he was burned.</p> <p>13 Q. Where on his clothing?</p> <p>14 A. I don't recall. I think she described 15 it as having got on his clothing and so she 16 was concerned about him, but I don't think 17 she ever -- I don't recall if she said 18 specifically how much and where on the 19 clothing it was.</p> <p>20 Q. And Ms. Durham's injuries were where?</p> <p>21 A. I believe it was the thigh, so the upper 22 leg and then the foot, maybe the lower leg, 23 maybe the shin. I, I think it's basically 24 leg, below the waist I think.</p>	<p style="text-align: center;">249</p> <p>1 the counter, you know, almost basically 2 touching because we're not going to have a 3 high side velocity if we're just doing a 4 gravity release and a spill, but you'd have 5 to be close. If you make those assumptions 6 then she could be burned below the waist, you 7 know, in these places.</p> <p>8 Q. In a similar pattern to how she was in 9 fact burned?</p> <p>10 A. Um, yeah, they could be similar.</p> <p>11 Q. And there is no scientific way to tell 12 us whether the contents, if they were on the 13 counter because of an ejection or because of 14 a spill, if they ran off the end of the 15 counter on her leg and her foot, there is no 16 scientific way to tell what happened to the 17 contents before; right?</p> <p>18 A. Well, no. I mean, so if the contents 19 are ejected under pressure their sideway 20 velocity would be much, much higher and she 21 wouldn't have to be basically with her, with 22 her waist up to the counter. She could be 23 many inches away and still get hit, whereas 24 if we're assuming a gravity only then we're</p>
<p style="text-align: center;">248</p> <p>1 Q. All below counter height; correct?</p> <p>2 A. Um, or close to it. Yeah, I think that 3 she said the counter height was about waist 4 height, so yeah, I would say below that.</p> <p>5 Q. Okay. Is it possible that the contents 6 spilled out, were ejected out onto the 7 counter and then ran off the counter onto her 8 legs?</p> <p>9 A. I guess that's possible. You know, yes, 10 I guess, as long as they're forcefully 11 ejected under pressure perhaps. I mean, it 12 still has to reach her legs so there has got 13 to be some kind of side velocity, but I guess 14 that's possible.</p> <p>15 Q. You can't exclude that certainly; right?</p> <p>16 A. That's true.</p> <p>17 Q. How would her injuries be different if 18 she spilled the contents on the counter and 19 the hot contents ran off the counter onto her 20 leg and her foot?</p> <p>21 A. Well, if we make the assumption that 22 none of the description of a pressurized 23 event applies and then we make the assumption 24 that her body must basically be adjacent to</p>	<p style="text-align: center;">250</p> <p>1 talking, then I think she has to be closer I 2 think because your sideways velocity is going 3 to be lower. So those would be, that would 4 be the only difference physically in terms of 5 how, you know, what you would expect and the 6 physics.</p> <p>7 Q. Do you know how close she was to the 8 counter?</p> <p>9 A. No, I don't think that was measured.</p> <p>10 Q. All right. So you only have an 11 approximation?</p> <p>12 A. I don't even know if we have an 13 approximation. I don't even know if she 14 described it in any way. I don't recall. I 15 don't recall her describing it.</p> <p>16 Q. Okay. So that's an unknown, do you 17 agree?</p> <p>18 A. Oh, I agree.</p> <p>19 Q. Do you know where the pot was located on 20 the counter?</p> <p>21 A. I don't think that was measured either.</p> <p>22 Q. So that's an unknown?</p> <p>23 A. Its exact position is certainly unknown.</p> <p>24 Q. And we talked a little bit about</p>

<p style="text-align: center;">251</p> <p>1 Newtonian physics at the beginning of the 2 deposition. If the contents are sprayed out 3 under pressure, 2 psi, they're going to 4 expend outward and then gravity is going to 5 start pulling them down; correct?</p> <p>6 A. That is absolutely correct.</p> <p>7 Q. And you can't tell me if there is enough 8 sideways velocity to clear the counter; 9 correct?</p> <p>10 A. When we release pressurized contents at 11 about 2 psi, you could clearly clear a 12 counter even if it was, you know, six to 13 eight inches in, but it would start falling. 14 So it wouldn't be -- it wouldn't still be at, 15 you know, initial height by the time it got 16 -- it cleared the counter. It would then 17 start being at counter height or just above 18 counter height.</p> <p>19 My experience on that is that 20 under the lower pressure events, the sideways 21 distance might be a foot or two or three, but 22 it's very small in terms of feet. It's the 23 higher pressure events that will get you 24 eight, ten feet away. I don't think that's</p>	<p style="text-align: center;">253</p> <p>1 really apply.</p> <p>2 Q. Okay. And that would be true if it was 3 filled high and she just tipped it when she 4 was taking the lid off or moving it or 5 something; right?</p> <p>6 A. That's true.</p> <p>7 Q. And you don't know how much liquid was 8 ejected, quantity?</p> <p>9 A. No, I don't think anybody measured the 10 quantity. I think it was just described as I 11 already described it, but I don't think 12 anybody measured it.</p> <p>13 Q. But it also wouldn't be inconsistent 14 with the amount of liquid in the spill 15 either; right?</p> <p>16 A. Um, if the amount of liquid was small 17 then that would not be consistent with 18 dumping the whole contents, but since nobody 19 measured it, I guess nobody measured it, 20 right. I don't know the value.</p> <p>21 Q. Well, I'm not asking you -- I mean, if 22 you dump the whole contents it's different 23 than if you jostled it and a little -- and a 24 cup came out or something, right? You can't,</p>
<p style="text-align: center;">252</p> <p>1 what we have here.</p> <p>2 Q. And your 2 psi is just an estimate, it 3 could be less than that; right?</p> <p>4 A. It could be a little less, yeah, I 5 agree.</p> <p>6 Q. Is there any physical evidence that the 7 lid separated from the pot and forcefully 8 sprayed or are you relying on her 9 description?</p> <p>10 A. I think her description is the only 11 thing one way or the other.</p> <p>12 Q. There is no damage to the pot that would 13 corroborate that; correct?</p> <p>14 A. Correct. Yes, that's correct. That's 15 correct.</p> <p>16 Q. If Ms. Durham opened the pot and spilled 17 the contents on the counter, you would -- you 18 would not have an opinion that the product 19 was defective, would you?</p> <p>20 A. Yeah. So if we're assuming that she 21 opened it when there was essentially no 22 pressure left and then spilled it on herself 23 then I would say yeah, then that doesn't -- 24 then the pressurized release opinions don't</p>	<p style="text-align: center;">254</p> <p>1 you can't by the quantity distinguish a spill 2 from an ejection, correct?</p> <p>3 A. Oh. Oh, so -- oh, well, no. So, okay, 4 I think I misunderstood your previous 5 question. So you're now suggesting there is 6 a hypothetical where you can shake this in 7 some magical way and have contents come out, 8 hit the counter, roll down the counter and 9 then reach your body? Is that what you're 10 suggesting in your hypothetical?</p> <p>11 Q. I'm asking --</p> <p>12 A. Am I understanding that right?</p> <p>13 Q. -- based on the amount of liquid that 14 was out of the pot, can you distinguish 15 between a spill or a ejection?</p> <p>16 A. Well, if the amount of liquid out of the 17 pot is very small or as described, as she 18 described the event, then if it were some -- 19 somehow a gravity-based spill, 20 non-pressurized, I don't see how it could get 21 to her body and cause these injuries.</p> <p>22 I think in order for a gravity 23 based-spill to do that, you have to lose all 24 the contents. It has to be a full, a full</p>

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<p>1 tip. It can't be -- it can't be just a 2 little shake like you're sort of implying. I 3 don't -- I don't see how that could be 4 realistic.</p> <p>5 Q. You're completely discounting the 6 possibility of a partial spill?</p> <p>7 A. No, no. You're completely -- your 8 hypothetical doesn't provide any realistic 9 fashion in which a small quantity spill 10 driven by gravity would reach her body even 11 if she was close to the counter. There is 12 no -- there is no -- there is nothing in your 13 hypothetical that implies that that could be 14 in any way realistic.</p> <p>15 Q. Are her injuries consistent with the pot 16 being dropped?</p> <p>17 A. If the contents are disgorged from the 18 pot before it, you know, reaches counter 19 height then it could be consistent, but if 20 they don't get disgorged until it's already 21 fallen past the counter height, then probably 22 not because I don't know how it could get on 23 her thigh at that point. So I think that we 24 have to assume that the contents are leaving</p>	<p>1 A. That's true. 2 Q. There is no scientific basis for doing 3 that. You're just accepting what she says; 4 right?</p> <p>5 A. Well, no. I mean, in the hypotheticals 6 you gave me for a gravity-based spill, only a 7 gravity-based spill which would disgorge the 8 whole contents I think could be consistent 9 with the injuries alone if we ignore her 10 testimony and just look at the injuries, but 11 a partial like shaking and a little bit of 12 burping out or shaking gravity and having a 13 little spill out the top, I don't think that 14 could lead to her injuries at all. So those 15 two hypotheticals, only one of them would 16 count.</p> <p>17 Q. Okay. You'd agree that some volume of 18 contents came out of the pot? That's a basis 19 for your opinion; right?</p> <p>20 A. Well, I think that has to be true in 21 order for her to be injured. I think that is 22 true.</p> <p>23 Q. Okay. And you don't know the volume of 24 the contents that came out; right?</p>	
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<p>1 while it's still at counter height 2 approximately.</p> <p>3 Q. If the unit was sitting on the counter 4 and the contents were ejected under pressure, 5 would you expect to see burns above the 6 height of the counter?</p> <p>7 A. Not necessarily. If the pressure is low 8 like we've already discussed and there are, 9 you know, there is a foot or two between her 10 and the pressure cooker, then after being 11 ejected horizontally it will start to fall 12 and so you could get injuries lower down.</p> <p>13 So they don't have to be above the 14 counter. If the pressure was a little higher 15 and the contents came out horizontally with a 16 very high velocity, then I think you would at 17 least expect contact with her body, you know, 18 at waist level or above. Maybe not burns, 19 but certainly contact, but I think if the 20 pressure is low you can get contact below the 21 waist.</p> <p>22 Q. So you exclude the possibility of a 23 gravity spill or a spill based on her 24 testimony; correct?</p>	<p>1 A. That's true. 2 Q. All right. Well let's call it X. 3 Whatever it is, it's X.</p> <p>4 A. Okay.</p> <p>5 Q. Couldn't the same X amount of contents 6 come out of a partial spill, however that 7 might happen?</p> <p>8 A. So if that X is large, like let's say 9 it's all or nearly all of the contents, then 10 I think a gravity-based spill could lead to 11 the injuries that we see here, but if X is 12 small meaning it's nowhere near the full 13 contents, it's closer to what she described 14 meaning just some liquid, no food, then what 15 you're dealing with is a gravity spill that 16 isn't large, meaning that you have to now 17 somehow realistically describe how you can 18 get a good sideways velocity off of a tiny or 19 a small X value spill, which I don't think 20 can be done realistically, and you certainly 21 haven't provided any type of realism to that 22 kind of hypothetical, and I don't see that 23 you could. I just don't see it.</p> <p>24 Q. So you're saying people that have</p>	

<p style="text-align: center;">259</p> <p>1 burned, been burned with pots of boiling 2 water only get burned by spilling the entire 3 pot? 4 A. No. If the pot of boiling -- if the pot 5 of boiling water is full, okay, up to the 6 brim and you shake the pot, you can get the 7 top half inch of water, three quarters, maybe 8 a full inch of water coming out and you could 9 be really badly burned.</p> <p>10 But if your pot has say two, 11 three, four inches, it's only half full and 12 you shake it, the sloshing is not going to 13 lead to a high amount of boiling water coming 14 out. It's just not. I don't see how that 15 hypothetical would lead to a high amount 16 coming out.</p> <p>17 And then the amount that comes 18 out, it's mostly just going up and down. It 19 will have almost no sideway velocity in that, 20 in the hypothetical, and so it's really not 21 going to reach you in any significant amount.</p> <p>22 And that's why I'm saying that in 23 these conditions with your hypothetical, it 24 just doesn't make realistic sense. It just</p>	<p style="text-align: center;">261</p> <p>1 ahead and address it, otherwise I can't 2 answer it. It's just the hypothetical 3 doesn't make any sense.</p> <p>4 Q. I'm not asking you a hypothetical 5 question. I'm asking you a very specific 6 question. The question is, is it possible 7 under any circumstance to have a partial 8 spill of contents? Yes or no?</p> <p>9 A. Under gravity. Okay. Well, let's start 10 with the hypo -- so what you are asking me is 11 a hypothetical.</p> <p>12 Q. Yes or no? Is it possible?</p> <p>13 A. You have to give me more information. 14 I've already answered this many times. Why 15 don't you give me more information and I'll 16 be happy to address it, right. I mean, an 17 alien could land on the roof tomorrow. Sure. 18 Why not? It hasn't happened yet, but it 19 could. I can't rule it out. I like aliens. 20 They could show up in my backyard this 21 afternoon, but you need to give me specifics, 22 right. How full is it? What are the 23 contents? What is the angle at which it 24 tips? How does it stop tipping when it</p>
<p style="text-align: center;">260</p> <p>1 doesn't. I mean, you'd have to find a way to 2 describe that in that way that it does, just 3 I don't see it.</p> <p>4 Q. You keep limiting my question to this 5 shaking scenario. Where did that come from?</p> <p>6 A. Well, why don't you -- why don't you 7 actually fill out the hypothetical? You're 8 suggesting a spill that's not the full 9 contents, which means it doesn't tip over, 10 right. If it tipped over all the way it 11 would be a full content spill. So why don't 12 you provide me with a complete hypothetical 13 and I will do my best to address it.</p> <p>14 Q. You don't think it's possible that a 15 partial spill occurred. You don't think --</p> <p>16 A. Why don't --</p> <p>17 Q. It's totally inconceivable?</p> <p>18 A. Why don't you give me a hypothetical in 19 which you describe this partial spill and I 20 will consider it. Because I've answered 21 everything else the best I can, but if you 22 give me a full hypothetical with this partial 23 spill, so tell me exactly what happened and 24 what I'm supposed to assume, then I will go</p>	<p style="text-align: center;">262</p> <p>1 reached that angle? How fast does the angle 2 change? Does it go all the way horizontal? 3 Is it pointing towards her, to the side, away 4 from her? Is she interacting with it in some 5 way? I mean, you have -- without those 6 pieces, how am I supposed to answer that?</p> <p>7 What I am telling you is I can't 8 conceive of a pot that's sitting on the 9 counter, somehow gets jostled, no pressure, 10 and a small amount of the contents leaves, 11 hits the counter, move vertically off the 12 counter -- horizontally off the counter and 13 reach her. I just don't see that 14 hypothetical making any sense at all, which 15 is why if you want to give me a hypothetical 16 that makes sense, please do so, but I just, I 17 just don't see your hypothetical making any 18 sense, and it is hypothetical. Clearly what 19 you're asking me is a hypothetical.</p> <p>20 Q. So you can't answer my question without 21 all that specific information?</p> <p>22 A. I've already answered that question and 23 told you that I don't think it's realistic, 24 and I've already said that many times over,</p>

<p style="text-align: center;">263</p> <p>1 and I said that if you want me to consider 2 something specifically I would be happy to do 3 so, but for some reason you don't want to 4 give that to me, and that's okay. I 5 understand. You don't want to. That's okay.</p> <p>6 MR. CALLAHAN: Can we take a 7 ten-minute break? I'll review my notes.</p> <p>8 MR. KRESS: Sounds good.</p> <p>9 THE WITNESS: Okay.</p> <p>10 THE VIDEOGRAPHER: Off the record. 11 The time is 6:18. 12 (Recess; 6:18 p.m.) 13 - - - 14 (Resumed; 6:29 p.m.)</p> <p>15 THE VIDEOGRAPHER: We're back on 16 the record, 6:29. 17 BY MR. CALLAHAN: 18 Q. In your report, sir, you state that 19 Instant Brands has used a protective screen 20 to protect float valves in other products? 21 A. Yes. 22 Q. When did they do that? 23 A. You know, I don't recall the date of 24 that, but I think it's a Duo, not the Duo</p>	<p style="text-align: center;">265</p> <p>1 A. Well, look at it. It's half the 2 material. I don't think you'd save a lot 3 though.</p> <p>4 Q. Do you have any evidence it was a cost 5 saving measure?</p> <p>6 A. Nope, but you asked me what it looked 7 like to me and that's what it looked like to 8 me. Like I said, I'd love to see their 9 engineering change order and their 10 engineering documents behind the choice.</p> <p>11 Q. Who made the change?</p> <p>12 A. I don't know which entity in the stream 13 made that decision, only that Instant Pot 14 sold it.</p> <p>15 Q. Is it your opinion that the product 16 using the double screen is not susceptible to 17 clogging?</p> <p>18 A. I think the double screen mitigates the 19 risk of clogging. Like I said, you can never 20 be 100 percent, but I think it does mitigate 21 the risk of clogging, right, because that's 22 why they use it for the pressure relief 23 valve.</p> <p>24 Q. Have you ever examined an Instant Pot</p>
<p style="text-align: center;">264</p> <p>1 Plus, and I think it's a number of years ago. 2 I don't think that -- I don't recall the 3 date, but I think it's more than a few years 4 ago. You know, it's not current -- I don't 5 know that it's current, but we bought it a 6 number of years ago.</p> <p>7 Q. You don't know why that change was made, 8 do you?</p> <p>9 A. No, I haven't seen any engineering 10 change documents.</p> <p>11 Q. And can you exclude the possibility that 12 it was considered a design improvement?</p> <p>13 A. I mean, I'd like -- if they're going to 14 prove that through engineering, I'd like to 15 see it. I don't see that, but I'd love to 16 see them prove that.</p> <p>17 Q. Have you considered that possibility?</p> <p>18 A. No. Well, to me it looks like it's a 19 cost saving measure, but like I said, if you 20 have documentation or proof that they did an 21 engineering analysis and proved that it's 22 better, I'd love to see that.</p> <p>23 Q. Why do you say it's a cost saving 24 measure?</p>	<p style="text-align: center;">266</p> <p>1 that used the double screen?</p> <p>2 A. Well, you're looking at one. I don't 3 remember which case this was for, which case 4 we had with that model, so I don't recall 5 which case that was.</p> <p>6 Q. Are you aware of any incidents where it 7 was demonstrated a pressure -- an Instant Pot 8 pressure cooker with that double screen 9 device clogged?</p> <p>10 A. That I don't know.</p> <p>11 Q. Turning to your demonstration, the 12 potato demonstration we talked about earlier, 13 do you have any photographs or videos of that 14 demonstration?</p> <p>15 A. I don't know.</p> <p>16 Q. Do you have any photographs or videos of 17 any demonstration demonstrating that clogging 18 is potential?</p> <p>19 A. I don't know.</p> <p>20 Q. Do you have any notes relating to those 21 demonstrations?</p> <p>22 A. I don't know.</p> <p>23 Q. Do you have any written protocols 24 related to those demonstrations?</p>

<p style="text-align: center;">267</p> <p>1 A. I don't know. 2 Q. All you have is what's in your head? 3 A. Well, that's all that I definitely have. 4 The others I don't know. 5 Q. You referenced in your report this 6 demonstration; correct? 7 A. I think I referenced that I have 8 experienced this type of clogging. If you'd 9 like to read me the sentence I'd be happy to 10 look at it. 11 Q. On Page 7 you say, "Prior testing 12 experience by BEAR has shown certain foods 13 are capable of clogging pressure cooker 14 valves." 15 You referenced this prior testing; 16 right? 17 A. Yeah. 18 Q. And you relied on it in your opinions; 19 right? 20 A. As part of my experience, yeah. 21 Q. And to be complete, that sort of testing 22 would have -- should have been produced; 23 right? 24 A. No, as part --</p>	<p style="text-align: center;">269</p> <p>1 under op -- under normal operating 2 conditions, real world operating conditions, 3 and you told me several times you cannot 4 quantify that risk. My question is, is that 5 risk just unknown to you or is it completely 6 unknowable to anyone? 7 A. I think if someone were to perform a 8 complete statistical study, which we also 9 talked about at great length, then you could 10 come up with a value for likelihood if you 11 wanted to. I think you could. 12 Q. Is there some likelihood that you don't 13 have to address that as design? 14 A. I think that if you can prove that the 15 likelihood is close to zero and you believe 16 that a design change is impractical, then you 17 could just warn against it, but only under 18 that circumstance. 19 I think that if a design change is 20 practical and feasible and doesn't 21 significantly change the design or the cost, 22 meaning you have to redesign the whole 23 product to do so, then I think it ought to be 24 done especially if you don't know the</p>
<p style="text-align: center;">268</p> <p>1 Q. If you're giving me the gist of it -- 2 A. It's part of my experience and I think I 3 can, I think I'm certainly able to reference 4 my prior experiences as they relate to items 5 pertinent to the case. 6 Q. In writing your report did you consider 7 looking for any evidence, photos, notes, 8 protocols related to this demonstration? 9 A. I don't think so. I don't recall. 10 Q. When was the last time you testified 11 about this potato demonstration? 12 A. I don't know. 13 Q. Do you know what type of potatoes you 14 used? 15 A. I don't recall. 16 Q. Do you know if they were cooked or 17 uncooked? 18 A. I don't recall. I believe they were -- 19 we might have done them both ways actually. 20 I guess I don't recall. 21 Q. Do you know how big of pieces you used? 22 A. No. 23 Q. I asked you several times about 24 quantifying the risk of a float valve clog</p>	<p style="text-align: center;">270</p> <p>1 statistics. I think it ought to be done, 2 period. You shouldn't just ignore it because 3 you think it might not happen. 4 Q. You said close to zero. What does close 5 to zero mean? 6 A. I don't have a number for that. I, I 7 cannot give you a number. 8 Q. But your opinion is if it's close to 9 zero you don't have to design against it. 10 What's that -- what does close to zero mean? 11 If you're an engineer and you're presented 12 with this problem, what does close to zero 13 mean? 14 A. Yeah. So as an engineer I would expect 15 the engineer who performed the work to 16 present me with an analysis that demonstrates 17 why they believe it is close to zero. I 18 would need to review that work and evaluate 19 the statistics, and then I could tell you 20 whether or not it was close to zero. That's 21 what I would need to do it. I cannot give 22 you a number standing here today. 23 Q. I'm sharing my screen. It's a photo I 24 think provided by defense to you. It is Set</p>

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<p>1 1_0974. Do you have -- can you see that, 2 sir?</p> <p>3 A. I can.</p> <p>4 Q. Do you know what that is?</p> <p>5 A. That looks like a disassembled float 6 valve.</p> <p>7 Q. Is it the float valve from the Durham 8 pot?</p> <p>9 A. I don't see any identification on here, 10 but if it were represented to be from the 11 Durham pot I wouldn't disagree.</p> <p>12 Q. I will represent that it is. Do you see 13 any signs -- well, let me ask it this way. 14 You testified previously you have seen signs 15 of food particles stuck on the inside of the 16 Instant Pot after an incident; correct?</p> <p>17 A. I -- no, I did not say Instant Pot. I 18 said that I've seen pressure cookers which 19 had not been cleaned after use and they were 20 extremely disgusting, nothing like what this 21 looks like. This one has clearly been 22 cleaned.</p> <p>23 Q. Okay. And is it your opinion this valve 24 has been cleaned, this valve stem?</p>	<p>1 somebody removed the valve stem and cleaned 2 it. I'm just saying that it got cleaned.</p> <p>3 I'm not saying whether or not it was removed.</p> <p>4 It might have been removed. It might not.</p> <p>5 Q. Well, how did someone clean it if it 6 wasn't removed?</p> <p>7 A. So why are you saying that it needed to 8 be removed to be cleaned? Because what if 9 the clog was only on the bottom portion 10 that's accessible without having to remove it 11 and you could easily clean it without 12 removing it.</p> <p>13 Q. Where would that clog be?</p> <p>14 A. It would be in the section that would be 15 visible from the underside of the lid.</p> <p>16 Q. Would the clog not have to be in the 17 orifice surrounding the valve stem?</p> <p>18 A. It could be in or over. It doesn't have 19 to be inside the cylinder, but it could be.</p> <p>20 Q. Do you see any food particles or debris 21 inside the silicon cap of the, of the valve?</p> <p>22 A. I do not, but I don't see how you could 23 even get food particles inside the cap when 24 it's still attached. I'm not even sure how</p>
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<p>1 A. To me it looks like it's been cleaned.</p> <p>2 Q. You don't see any evidence of food 3 debris on it?</p> <p>4 A. Well, I mean I see some particles that 5 may or may not be food. They may just be 6 just discoloration of the cylinder, and if 7 that were the case then that still means it 8 just -- it got cleaned. That just means it 9 didn't get, you know, perfectly cleaned.</p> <p>10 Q. Looking at this valve stem, where was 11 the clog? Can you tell me?</p> <p>12 A. I can't tell you. I can't tell you 13 exactly where the clog is. You've already 14 asked that and I'm going to give you the same 15 answer. I can't tell you exactly.</p> <p>16 Q. Well, I've never shown you this valve 17 stem, have I?</p> <p>18 A. But the question is the exact same and 19 the answer is the exact same. You can show 20 me 20 pictures of the valve stem if you'd 21 like.</p> <p>22 Q. Can you tell me who removed the valve 23 stem and cleaned it?</p> <p>24 A. Well, first of all, you're assuming that</p>	<p>1 you would do that.</p> <p>2 Q. Isn't this cylinder open to the bottom?</p> <p>3 A. Not necessarily. I think there is a 4 chamber that connects the side holes to the 5 side holes. We would have to look at a 6 photograph of the end to see if the chamber 7 goes all the way to the bottom.</p> <p>8 Q. Not --</p> <p>9 A. I just don't recall on this one.</p> <p>10 Q. Not necessarily. You've looked at the 11 pot, haven't you, or not?</p> <p>12 A. Like I said, I don't believe that we 13 disassembled the float valve.</p> <p>14 Q. This is where the clog you claim 15 occurred; correct?</p> <p>16 A. So I think that you're -- it seems like 17 you're getting a little upset. The -- the 18 answer is the clog could have been over the 19 top of the orifice holes and around the 20 annular openings. Right, it doesn't have to 21 go in. That's one potential, or the clog 22 could have gone into the hole but not far, 23 maybe just into the hole and also over the 24 top and around the annular opening, or the</p>

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1 clog could have gone all the way in and
 2 somebody has cleaned this thoroughly, or it
 3 didn't go all the way in at all. It was only
 4 on the outside, only on the surface, and
 5 that's all that it ever was. It could be any
 6 of those things and I can't tell you which of
 7 those it is.

8 Q. Because they're all just hypotheticals
 9 at this point in time; right?

10 A. Well, they're hypotheticals that are
 11 consistent with the evidence that we have in
 12 the case and they're also realistic. The
 13 hypotheticals you've been throwing at me
 14 don't seem to be bounded by realism.

15 Q. My question is, wherever this
 16 hypothetical clog occurred, it was in contact
 17 with this valve stem; correct?

18 A. Yes.

19 Q. And at no time during your examination
 20 of the pot did you remove the valve stem to
 21 examine it; correct?

22 A. That is still true, yes.

23 Q. And did you ever consider looking at the
 24 valve stem during your examination?

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1 A. Well, we did look at it externally, but
 2 I don't think we ever considered
 3 disassembling and removing it.

4 Q. Disassembling is just popping the cap
 5 off and letting it fall into your hand;
 6 right?

7 A. Yes.

8 Q. No tools are required?

9 A. No. No, but it does -- it does require
 10 you to take the cap off, which means that
 11 you'll never be able to get it on exactly the
 12 same way it was before, so that's why I
 13 didn't feel like we needed to change it.

14 MR. CALLAHAN: That's all I have.

15 Thank you.

16 THE WITNESS: Okay.

17 MR. KRESS: Nothing here.

18 THE VIDEOGRAPHER: This completes
 19 the videotape deposition. The time is 6:45.
 20 We're now going off the video record.

21 (Witness excused.)

22 - - -

23 (Deposition concluded at 6:45
 24 p.m.)

1

CERTIFICATION

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 3
 4 I, JARED E. BITTNER, RPR and NJ CSR
 5 License No. 30XI00235600, do hereby certify
 6 that prior to the commencement of the
 7 examination, DAVID RONDINONE, was duly
 8 remotely sworn by me to testify to the truth,
 9 the whole truth and nothing but the truth.

7

8 I DO FURTHER CERTIFY that the
 9 foregoing is a verbatim transcript of the
 10 testimony as taken stenographically by me at
 11 the time, place and on the date hereinbefore
 12 set forth, to the best of my ability.

10

11 I DO FURTHER CERTIFY that I am neither
 12 a relative nor employee nor attorney nor
 13 counsel of any of the parties to this action,
 14 and that I am neither a relative nor employee
 15 of such attorney or counsel, and that I am
 16 not financially interested in this action.

14

15

16

17 JARED E. BITTNER, RPR
 18 NJ CSR No. 30XI00235600
 19 Notary Public
 20 Dated: September 15, 2022

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23

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